

11/10/77

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WITHDRAWAL SHEET (PRESIDENTIAL LIBRARIES)

FORM OF DOCUMENT	CORRESPONDENTS OR TITLE	DATE	RESTRICTION
memo	From Mondale to The President (3 pp.) re: Foreign Missions- Canada and Mexico <i>opened per RAC, 3/11/13</i>	11/10/77	A
memo w/	From Brzezinski to The President (7 pp.) re: Meeting With Soviet Foreign Trade Minister/ enclosed in Hutcheson to Mondale et al. <i>5 pp. Declassified per RAC NLC-126-9-36-1-2, 3/12/13</i>	11/8/77	A

FILE LOCATION

Carter Presidential Papers- Staff Offices, Office of the Staff Sec.- Pres. Hand-writing File 11/10/77 BOX 59

RESTRICTION CODES

- (A) Closed by Executive Order 12356 governing access to national security information.
- (B) Closed by statute or by the agency which originated the document.
- (C) Closed in accordance with restrictions contained in the donor's deed of gift.

THE PRESIDENT'S SCHEDULE

Thursday - November 10, 1977

8:15 Dr. Zbigniew Brzezinski - The Oval Office.

8:45 Mr. Frank Moore - The Oval Office.

10:00 Mr. Jody Powell - The Oval Office.

10:30 News Conference. (Mr. Jody Powell).
(30 min.) Room 450, EOB.

11:15 Meeting with Secretary Michael Blumenthal,
Mr. Charles Schultze, Mr. James McIntyre,
and Dr. Arthur F. Burns - The Oval Office.

1:30 His Excellency Nikolay Semenovitch Patolichev,
(15 min.) Minister of Foreign Trade of the USSR.
(Dr. Zbigniew Brzezinski) - The Oval Office.

2:30 Meeting with Business Leaders. (Mr. Jack
(30 min.) Watson) - The Cabinet Room.

3:45 Drop-By Panama Canal Briefing. (Ms. Margaret
(15 min.) Costanza) - The State Dining Room.

THE WHITE HOUSE
WASHINGTON

November 10, 1977

Stu Eizenstat

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

RE: 160-ACRE LIMITATION

immediate action requested

THE WHITE HOUSE

WASHINGTON

November 7, 1977

*Estimated on Statement of -
average subsidy per year
figure may be
added
JC*

MEMORANDUM FOR

THE PRESIDENT

FROM

STU EIZENSTAT *Stu*

SUBJECT:

160-Acre Limitation

I believe the Administration needs to move swiftly in an effort to regain the initiative on the issue of the 1902 Reclamation Law acreage limitation. Misinformation and confusion are prevalent in Congress and among the public. My staff and I have been working with the Interior and Agriculture Departments on the substantive issues involved, and we have a proposed strategy to suggest.

Background

- The 1902 Reclamation Act established a federal program to irrigate arid Western areas to promote family settlement; beneficiaries were limited to resident farmers with no more than 160 acres allotted per individual family member.
- 1926 amendments to the Act established improved administrative mechanisms, reaffirmed 160-acre limitation and did not repeal the residency requirement.
- The Bureau of Reclamation has enforced the acreage limitations but ceased enforcing the residency requirement in 1926, because of an erroneous interpretation of the 1926 amendments.
- The Bureau of Reclamation did not enforce acreage limitation in Imperial Valley because of special historical circumstances. In the 1960's Interior finally ruled the limit applied, but the issue has been tied up in Court since then. There are some other projects where the applicability of the limitation has been questioned as well.

- In recent years, particularly in the Westlands area (largest irrigation district in the nation, located in the Central Valley Project, California), abuses of the acreage limitation by corporate landowners, including questionable land sales transactions, have been challenged successfully in Court.
- Recent lower court decisions have held:
 - Residency is a requirement for Bureau of Reclamation project areas;
 - Imperial Valley does fall under the acreage requirements; and
 - The Department must have published rules and regulations to govern the implementation of the excess land law (the pending proposed regulations meet this requirement).

The issuance of proposed Interior Department regulations to establish excess land procedures, required by a suit regarding the Westlands area, have prompted widespread concern in the West. The concerns include:

- The regulations would implement the residency requirement for new buyers into a project, and the preface to the regulations announced that residency requirements for existing landowners will be promulgated in the near future. Since residency has not been enforced since 1926, and since complete enforcement might lead to unwarranted hardships for elderly farmers who wish to retire or for families whose children move away, there is a great deal of concern about this provision.
- The regulations would restrict the amount of land a project participant could lease to an allotment of another 160 acres per resident family member. This is the first time that such a restriction would be applied, and a number of project beneficiaries would be affected.
- There are legitimate questions as to whether the limitations in the 1902 Act need to be updated to reflect present-day farming techniques.

It must be pointed out that the conditions imposed on Reclamation Project beneficiaries are linked to the enormous subsidies involved in these irrigation projects. The social purpose of the 1902 Act was to subsidize heavily the establishment of family farms. The Interior Department has determined that the current subsidy in the Westlands Irrigation District, for example, amounts to more than \$1,500 per acre. (Given these enormous subsidies, I think we should be very careful not to imply that we are leaning toward wholesale lifting of the conditions attached to the benefits.)

Proposed Statement

Secretary Andrus and his Solicitor have drafted a statement which they would like to release within a day or so. (Draft at Tab A.) It affirms a commitment to the concept of restricting federally subsidized water to legitimate family farmers, but points out that the Administration will determine over the next few months whether modernization of the Law is needed. Importantly, the statement announces that the regulations will not be final before the end of February, and that by then we may have recommendations to modify the Law, if appropriate. It also announces that the acreage limitation will not be applied in the Imperial Valley until the issue of whether the limit applied is finally settled in the Courts.

Note: Secretary Andrus is scheduled to testify Thursday on the question. Your approval by Wednesday would permit coordination of the statement or statements with Secretary Andrus' testimony.

PROPOSED ANDRUS
STATEMENT

Proposed Statement of Secretary Cecil D. Andrus

The publication of proposed new regulations to enforce the excess lands and other provisions of the Reclamation Act of 1902 has brought forth a great deal of comment, controversy, and confusion. The President and I believe it is time for a statement clarifying the Administration's position on this issue.

The Department's basic responsibility and objective is to enforce the law as written. No one in this Administration is closed to consideration of changes in the 1902 law, but it is clear, and made even clearer by recent judicial decisions, that the law as written must be enforced. We believe the proposed regulations now before the public will afford us the opportunity for proper enforcement following public comment, and will also indicate the basic statutory changes which may be necessary in the basic law.

The regulations have prompted questions about the basic validity in 1977, of the original Reclamation concept which was clearly aimed at development of residential family farms in the West. The Federal subsidies involved in providing irrigation water to Reclamation projects are substantial. For example, the Bureau of Reclamation has estimated the present value of the subsidy in the Westlands Water District at \$800,000,000 or more than \$1,500 per acre.

One corporate landowner today holds more than 100,000 acres in that District. Without limitations on land ownership, the subsidy accruing to the land owned by this corporation over the life of the project exceeds \$150 million. This statistic graphically illustrates why acreage limitations are necessary.

I continue to believe that family farms are essential to the strength of our nation. This Administration strongly believes that the Federal subsidies now provided through the Reclamation programs should be available to legitimate family farmers but not to large corporations. While conditions of family farming may have changed in some areas since the Reclamation law was passed in 1902, Congress has not seen fit to change the law. Various actions and inquiries are now underway to assess the changes in the law that may be necessary for the future. These include the President's water policy review, the work of the Task Force established by Congress to investigate the Westlands Irrigation District, and 13 hearings throughout the West on the proposed excess lands regulations.

I am deeply concerned about inadequate public understanding of the draft excess lands regulations now out for comment, and I am aware of legislation proposed to place a moratorium on implementation of the regulations. I believe that such a moratorium would not enable us to carry out the

intent of the law by establishing fair enforcement standards, and for that reason oppose the moratorium. Nevertheless, I recognize the concern and want to announce today I will take no action to promulgate final excess lands regulation prior to March 1, 1978. In addition, I will carefully review comments on the regulations to ensure that we develop a system which will provide those in violation of the regulations a fair period in which to dispose of excess lands, should they be required to do so. Where changes are necessary in the proposed regulations, I will not hesitate to make them.

I will also utilize the period between the closing date of comment on the proposed regulations (November 23) and the first of March to assess public comment on the broader issue of amendments to the present Reclamation law, and consult with members of Congress on these matters. Action on the regulations and decisions on amendment should be made together.

I also intend to ask the Secretary of Agriculture for his opinion and recommendations regarding not only the regulations, but the role of acreage limitations and other facets of Reclamation law in the context of modern agriculture.

On the closely-related matter of residency, I understand that certain hardships might exist under the proposed regulations

even though the law was enacted to foster family farming. I remain open on this issue during the review period, particularly in the case of retired elderly farmers. I have already asked the Solicitor to advise me whether flexibility exists in the law to deal with hardship cases. If the law needs to be changed to correct this problem, I will not hesitate to propose legislation.

The Imperial Valley situation, which is to some extent being perceived as representative of all areas subject to excess land requirements, is, in fact, quite unique. The issue of whether the District is or is not subject to acreage limitation is still before the courts and until the matter is settled, I will not apply the new regulations to the District. Even if the regulations are found to apply by the courts, the District will be provided an additional year to sign excess lands disposal contracts, and five years to actually dispose of land before water will be withheld. I also intend to explore whether there are other areas where reliance on non-applicability of acreage limitations is at issue.

There should be, in summary, no doubt that this Administration believes the law should be enforced as written, and believes family farms remain a viable objective of federally-funded water programs. I remain open to changes in the regulations and the Reclamation Act and will propose those changes only after basic fairness is considered.


STAFF
COMMENTS

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

9 November 1977

TO: THE PRESIDENT
FROM: RICK HUTCHESON 
SUBJECT: Staff Comments

Moore concurs with Eizenstat. Jordan has no comment.

McIntyre observes that the fundamental issue is not the 160-acre limitation but whether the Reclamation program should be continued at the current subsidy levels. The statement notes that the level of subsidies to individuals will be addressed when the Water Policy Review is completed in February.

Watson thinks it's a good idea for the Administration to clarify its position on the 160-acre regulations. However, Jack thinks the Andrus statement is more equivocal than necessary. "Your commitment to change the law and your clearly expressed view that 160-acre limits do not reflect current farming conditions should be explicitly repeated in any statement designed to allay public concerns."

Jack also suggests that:

- o it might make sense to defer consideration of the proposed regulations until after we've decided what legislative changes to advocate; and
- o a sentence might be added to acknowledge that while the proposed regulations would apply nationwide, specific statutory and judicial exemptions shield most of the country from their impact.

Electrostatic Copy Made
for Preservation Purposes

THE WHITE HOUSE

WASHINGTON

November 9, 1977

cc. U.P.
H.V.

C

MEMORANDUM TO THE PRESIDENT *f. n.*

FROM: FRANK MOORE.
JIM FREE *Jim*
BOB THOMSON *Bob*

RE: ENERGY CONFERENCE (Coal Conversion)

The coal conversion conference stalled all morning on the question of impact assistance for "boom town" localities experiencing rapid growth from increased uranium and coal mining activity. When asked, we have continued to express opposition to energy impact assistance in the context of the coal conversion bill. However, Chairman Staggers, Senator Haskell and Senator Ford are very disturbed about our position.

The conferees approved a package of staff recommendations allowing FEA to issue case-by-case orders against existing installations above the 100 million Btu threshold and prohibitions by category against existing installations above the 300 million Btu threshold. The package contained certain temporary and permanent exemptions, as well. The conference also approved some administrative provisions relating to hearing procedures.

Thursday, the conference will return to energy impact assistance and coal conversion loans and guarantees. The coal conversion conference could end tomorrow, since many of the House conferees are anxious to attend the tax sessions. However, it is more likely that the conference will now run over until Friday morning.

Our champions on impact assistance were Congressmen Dingell, Foley, Rogers and Eckhardt. Congressman Dingell advocated our position of continuing a study and not actually providing the aid. Chairman Staggers, who is getting heavy pressure from his home state through Governor Rockefeller, is very much for money in impact aid now. Staggers got very upset at the Administration over the difference of opinion. He is also feeling neglected and you now have a meeting set with him at 9:05 a.m. Friday morning to discuss in general terms the progress of the energy conference.

Senator Haskell accused us in open session of lobbying too hard (for a change!) against impact assistance. We met with him in the afternoon to indicate we are opposing impact assistance, but would discuss it again at our evening meeting. When asked, we will continue to express opposition. However, it is likely a compromise will emerge from the conference tomorrow with most of the program intact, but with a significantly lower budget impact.

There was some early confusion about which agency - DOE or Farmers' Home - is to administer the program. We have explained that you want Farmers' Home to run the program if it is forced upon us. As you remember, you expressed that position in a decision memo two weeks ago.

THE WHITE HOUSE

WASHINGTON

Date: November 8, 1977

MEMORANDUM

FOR ACTION:

Hamilton Jordan *in c by phone (L3)*
Bob Lipshutz
Frank Moore (Les Francis) *concur w/ revised division*
Jody Powell
Jack Watson *attached*
Jim McIntyre *attached* Jim Fallows

FOR INFORMATION:

The Vice President

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: 160-Acre Limitation

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME:

DAY: IMMEDIATE TURNAROUND

DATE:

ACTION REQUESTED:

☒ Your comments

COMMENTS BY 5:00 PM TODAY - NO EXTENSIONS

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

*TO BE
revised by SE
New Version Wed A.M.
Andrus testimony probably not*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

Proposed Statement of Secretary Cecil D. Andrus

The publication of proposed new regulations to enforce the excess lands and other provisions of the Reclamation Act of 1902 has brought forth a great deal of comment, controversy, and confusion. The President and I believe it is time for a statement clarifying the Administration's position on this issue.

The Department's basic responsibility and objective is to enforce the law as written. No one in this Administration is closed to consideration of changes in the 1902 law, but it is clear, and made even clearer by recent judicial decisions, that the law as written must be enforced. We believe the proposed regulations now before the public will afford us the opportunity for proper enforcement following public comment, and will also indicate the basic statutory changes which may be necessary in the basic law.

The regulations have prompted questions about the basic validity in 1977, of the original Reclamation concept which was clearly aimed at development of residential family farms in the West. The Federal subsidies involved in providing irrigation water to Reclamation projects are substantial. For example, the Bureau of Reclamation has estimated the present value of the subsidy in the Westlands Water District at \$800,000,000 or

more than \$1,500 per acre. One corporate landowner today holds more than 100,000 acres in that District. Without limitations on land ownership, the subsidy accruing to the land owned by this corporation over the life of the project exceeds \$150 million. This statistic graphically illustrates why acreage limitations are necessary.

I continue to believe that family farms are essential to the strength of our nation. This Administration strongly believes that the Federal subsidies now provided through the Reclamation programs should be available to legitimate family farmers but not to large corporations. While conditions of family farming may have changed in some areas since the Reclamation law was passed in 1902, Congress has not seen fit to change the law. Various actions and inquiries are now underway to assess the changes in the law that may be necessary for the future. These include the President's water policy review, the work of the Task Force established by Congress to investigate the Westlands Irrigation District, and 13 hearings throughout the West on the proposed excess lands regulations.

I am deeply concerned about inadequate public understanding of the draft excess lands regulations now out for comment, and I am aware of legislation proposed to place a moratorium on implementation of the regulations. I believe that such a

moratorium would not enable us to carry out the intent of the law by establishing fair enforcement standards, and for that reason oppose the moratorium. Nevertheless, I recognize the concern and want to announce today I will take no action to promulgate final excess lands regulation prior to March 1, 1978. In addition, I will carefully review comments on the regulations to ensure that we develop a system which will provide those in violation of the regulations a fair period in which to dispose of excess lands, should they be required to do so. Where changes are necessary in the proposed regulations, I will not hesitate to make them.

I will also utilize the period between the closing date of comment on the proposed regulations (November 23) and the first of March to assess public comment on the broader issue of amendments to the present Reclamation law, and consult with members of Congress on these matters. Action on the regulations and decisions on amendment should be made together.

I also intend to ask the Secretary of Agriculture for his opinion and recommendations regarding not only the regulations, but the role of acreage limitations and other facets of

Reclamation law in the context of modern agriculture.

On the closely-related matter of residency, I understand that certain hardships might exist under the proposed regulations even though the law was enacted to foster family farming. I remain open on this issue during the review period, particularly in the case of retired elderly farmers. I have already asked the Solicitor to advise me whether flexibility exists in the law to deal with hardship cases. If the law needs to be changed to correct this problem, I will not hesitate to propose legislation.

The Imperial Valley situation, which is to some extent being perceived as representative of all areas subject to excess land requirements, is, in fact, quite unique. The issue of whether the District is or is not subject to acreage limitation is still before the courts and until the matter is settled, I will not apply the new regulations to the District. Even if the regulations are found to apply by the courts, the District will be provided an additional year to sign excess lands disposal contracts, and five years to actually dispose of land before water will be withheld.

There should be, in summary, no doubt that this Administration believes the law should be enforced as written, and believes

- 5 -

family farms remain a viable objective of federally-funded water programs. I remain open to changes in the regulations and the Reclamation Act and will propose those changes only after basic fairness is considered.

PROPOSED PRESIDENTIAL STATEMENT ON 160-ACRE LIMITATION

There have been many questions and fears raised about the 160-acre limitation in the Reclamation Law. It is important for the public to understand the fundamental facts regarding this issue.

The original Reclamation Law was designed to encourage development of family farms in the West. To do this the law provided federally subsidized water on the basis of 160 acres per person and required that farmers live on or near their land.

Recent Court decisions have required the government to begin to correct past inconsistencies in enforcement of the law. At the same time, it is clear that conditions of family farming have changed since the first law was passed in 1902.

The Administration is moving to determine whether changes need to be made in the law to make it current with the economic realities of family farming today:

- Thirteen hearings are scheduled throughout the West on the Department of Interior's Proposed Excess Land Regulations.
- A Task Force established by Congress to review the Westlands Water District (largest in the nation) will report its findings by January 1.

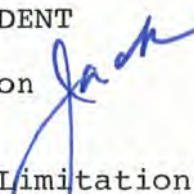
- The Administration's Water Policy Review Task Force will present recommendations to me in February.

In light of these efforts, final excess land regulations will not be issued at least until the end of February.

In addition, I have asked the Secretaries of Interior and Agriculture to review the 160-acre limitation in light of changes in agriculture since 1902, and to review potential hardship cases under the residency requirement as well -- for example, the case of elderly farmers who wish to retire. This review will be completed in February. I have asked the Secretaries to advise me at that time of the need for any appropriate amendments to modernize the Reclamation Law.

The Imperial Irrigation District represents a unique problem. The issue of whether the District is or is not subject to the acreage limitation is still before the Courts. Until the matter is finally settled by the Courts, excess land regulations will not be applied to the District.

THE WHITE HOUSE
WASHINGTON

MEMORANDUM TO: THE PRESIDENT
FROM: Jack Watson 
RE: 160-Acre Limitation

November 8, 1977

The idea of making a public statement clarifying the Administration's position on the 160-acre regulations is a good one. Notwithstanding your statement to the out-of-town editors several weeks ago, I continue to get expressions of concern from state and local officials (especially Governors) from the West. I do have three brief observations:

1. In light of your public position on the issue, I think the proposed statement by Cecil Andrus is more equivocal than necessary and, therefore, may be viewed by some as a retreat from your previously expressed views. In speaking to the Western editors you said:

"I recognize...that 75 years ago, 320 acres for a husband and wife for irrigated land was all they could handle. Now, with massive development and large machinery, a larger acreage is necessary for an economically viable farm operation. So the law needs to be changed but we don't have any alternative but to enforce the law."

Your commitment to change the law and your clearly expressed view that 160-acre limits do not reflect current farming conditions should be explicitly repeated in any statement designed to allay public concerns.

2. Given your views, wouldn't it make sense to defer consideration of the proposed regulations until after we've decided what legislative changes to advocate? If our reason for promulgating new regulations is to respond to recent court decisions, I suspect we could convince the court to defer any order pending our introduction of legislation to the Congress. A decision to take this course of action should, of course, be included in the public statement.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

NOV 8 1977

MEMORANDUM FOR THE PRESIDENT

FROM: James T. McIntyre, Jr.
SUBJECT: 160-Acre Limitation

A handwritten signature in dark ink, reading "Jim McIntyre", is written over the printed name "James T. McIntyre, Jr." in the "FROM:" field.

The 160-acre limitation is a sensitive issue which must be dealt with, and we believe Secretary Andrus' statement does so adequately. A statement by you at this time may be premature in view of the pending Water Policy Study.

A fundamental issue is whether the Federal Government can justify spending a quarter of a million dollars or more per individual to support a family-sized farm. The days of the horse and plow farmers of 1902 when the Reclamation program was started are gone. Today irrigation farmers are sophisticated, well capitalized and a quarter million dollar subsidy - whether to a corporate or an individual farmer - is totally unconscionable in our view. We believe, for this reason, that the fundamental issue is not the 160-acre limitation but whether the Reclamation program should be continued at the current subsidy levels.

The proposed draft statement, which supports the family farm concept, can be reasonably construed to support a continuation of the Federal Reclamation program in its present form, if it meets the objective of encouraging family farms. We believe the Secretary's statement, if it is to be issued, should specifically note that the levels of subsidies to individuals will be addressed when the Water Policy Review is completed in February.

3. The statement is well-crafted to show sensitivity to the special problems of the Imperial Valley. An additional sentence might be added to acknowledge that while the proposed regulations would apply nationwide, specific statutory and judicial exemptions shield most of the country from the impact of the regulations and the 1902 law.

It must be pointed out that the conditions imposed on Reclamation Project beneficiaries are linked to the enormous subsidies involved in these irrigation projects. The social purpose of the 1902 Act was to subsidize heavily the establishment of family farms. The Interior Department has determined that the current subsidy in the Westlands Irrigation District, for example, amounts to more than \$1,500 per acre. (Given these enormous subsidies, I think we should be very careful not to imply that we are leaning toward wholesale lifting of the conditions attached to the benefits.)

Proposed Statement

Secretary Andrus and his Solicitor have drafted a statement which they would like to release within a day or so. (Draft at Tab A.) It affirms a commitment to the concept of restricting federally subsidized water to legitimate family farmers, but points out that the Administration will determine over the next few months whether modernization of the Law is needed. Importantly, the statement announces that the regulations will not be final before the end of February, and that by then we may have recommendations to modify the Law, if appropriate. It also announces that the acreage limitation will not be applied in the Imperial Valley until the issue of whether the limit applied is finally settled in the Courts.

Because this statement will be well received in the West (particularly in California's Imperial and Central Valleys) you may wish to issue a shorter statement of your own (draft attached at Tab B).

- ☐ Approve Andrus Statement
- ☐ Accompany with Presidential Statement
- ☐ Other

Note: Secretary Andrus is scheduled to testify Thursday on the question. Your approval by Wednesday would permit coordination of the statement or statements with Secretary Andrus' testimony.

Date: November 8, 1977

MEMORANDUM

FOR ACTION:

Hamilton Jordan *NC*
Bob Lipshutz
Frank Moore (Les Francis) *once*
Jody Powell
Jack Watson
Jim McIntyre Jim Fallows

FOR INFORMATION:

The Vice President

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: 160-Acre Limitation



YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME:

DAY: IMMEDIATE TURNAROUND

DATE:

ACTION REQUESTED:

☒ X Your comments

COMMENTS BY 5:00 PM TODAY - NO EXTENSION

Other:

STAFF RESPONSE:

☐ I concur.

Please note other comments below:


☒ No comment.**PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.**

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

Date: November 8, 1977

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STAFF RESPONSE:

☒ I concur.
Please note other comments below:

☐ No comment.

BJ

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STAFF RESPONSE:

☐ I concur.☐ No comment.

Please note other comments below:

OK as amended -

JHD for Jim Fallows - 11/8/77

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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THE WHITE HOUSE

WASHINGTON

November 7, 1977

MEMORANDUM FOR

THE PRESIDENT

FROM

STU EIZENSTAT

Stu

SUBJECT:

160-Acre Limitation

I believe the Administration needs to move swiftly in an effort to regain the initiative on the issue of the 1902 Reclamation Law acreage limitation. Misinformation and confusion are prevalent in Congress and among the public. My staff and I have been working with the Interior and Agriculture Departments on the substantive issues involved, and we have a proposed strategy to suggest.

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- The 1902 Reclamation Act established a federal program to irrigate arid Western areas to promote family settlement; beneficiaries were limited to resident farmers with no more than 160 acres allotted per individual family member.
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Proposed Statement

Secretary Andrus and his Solicitor have drafted a statement which they would like to release within a day or so. (Draft at Tab A.) It affirms a commitment to the concept of restricting federally subsidized water to legitimate family farmers, but points out that the Administration will determine over the next few months whether modernization of the Law is needed. Importantly, the statement announces that the regulations will not be final before the end of February, and that by then we may have recommendations to modify the Law, if appropriate. It also announces that the acreage limitation will not be applied in the Imperial Valley until the issue of whether the limit applied is finally settled in the Courts.

Because this statement will be well received in the West (particularly in California's Imperial and Central Valleys) you may wish to issue a shorter statement of your own (draft attached at Tab B).

_____ Approve Andrus Statement

_____ Accompany with Presidential Statement

_____ Other

Note: Secretary Andrus is scheduled to testify Thursday on the question. Your approval by Wednesday would permit coordination of the statement or statements with Secretary Andrus' testimony.

Proposed Statement of Secretary Cecil D. Andrus

The publication of proposed new regulations to enforce the excess lands and other provisions of the Reclamation Act of 1902 has brought forth a great deal of comment, controversy, and confusion. The President and I believe it is time for a statement clarifying the Administration's position on this issue.

The Department's basic responsibility and objective is to enforce the law as written. No one in this Administration is closed to consideration of changes in the 1902 law, but it is clear, and made even clearer by recent judicial decisions, that the law as written must be enforced. We believe the proposed regulations now before the public will afford us the opportunity for proper enforcement following public comment, and will also indicate the basic statutory changes which may be necessary in the basic law.

The regulations have prompted questions about the basic validity in 1977, of the original Reclamation concept which was clearly aimed at development of residential family farms in the West. The Federal subsidies involved in providing irrigation water to Reclamation projects are substantial. For example, the Bureau of Reclamation has estimated the present value of the subsidy in the Westlands Water District at \$800,000,000 or

more than \$1,500 per acre. One corporate landowner today holds more than 100,000 acres in that District. Without limitations on land ownership, the subsidy accruing to the land owned by this corporation over the life of the project exceeds \$150 million. This statistic graphically illustrates why acreage limitations are necessary.

I continue to believe that family farms are essential to the strength of our nation. This Administration strongly believes that the Federal subsidies now provided through the Reclamation programs should be available to legitimate family farmers but not to large corporations. While conditions of family farming may have changed in some areas since the Reclamation law was passed in 1902, Congress has not seen fit to change the law. Various actions and inquiries are now underway to assess the changes in the law that may be necessary for the future. These include the President's water policy review, the work of the Task Force established by Congress to investigate the Westlands Irrigation District, and 13 hearings throughout the West on the proposed excess lands regulations.

I am deeply concerned about inadequate public understanding of the draft excess lands regulations now out for comment, and I am aware of legislation proposed to place a moratorium on implementation of the regulations. I believe that such a

moratorium would not enable us to carry out the intent of the law by establishing fair enforcement standards, and for that reason oppose the moratorium. Nevertheless, I recognize the concern and want to announce today I will take no action to promulgate final excess lands regulation prior to March 1, 1978. In addition, I will carefully review comments on the regulations to ensure that we develop a system which will provide those in violation of the regulations a fair period in which to dispose of excess lands, should they be required to do so. Where changes are necessary in the proposed regulations, I will not hesitate to make them.

I will also utilize the period between the closing date of comment on the proposed regulations (November 23) and the first of March to assess public comment on the broader issue of amendments to the present Reclamation law, and consult with members of Congress on these matters. Action on the regulations and decisions on amendment should be made together.

I also intend to ask the Secretary of Agriculture for his opinion and recommendations regarding not only the regulations, but the role of acreage limitations and other facets of

Reclamation law in the context of modern agriculture.

On the closely-related matter of residency, I understand that certain hardships might exist under the proposed regulations even though the law was enacted to foster family farming. I remain open on this issue during the review period, particularly in the case of retired elderly farmers. I have already asked the Solicitor to advise me whether flexibility exists in the law to deal with hardship cases. If the law needs to be changed to correct this problem, I will not hesitate to propose legislation.

The Imperial Valley situation, which is to some extent being perceived as representative of all areas subject to excess land requirements, is, in fact, quite unique. The issue of whether the District is or is not subject to acreage limitation is still before the courts and until the matter is settled, I will not apply the new regulations to the District. Even if the regulations are found to apply by the courts, the District will be provided an additional year to sign excess lands disposal contracts, and five years to actually dispose of land before water will be withheld.

There should be, in summary, no doubt that this Administration believes the law should be enforced as written, and believes

family farms remain a viable objective of federally-funded water programs. I remain open to changes in the regulations and the Reclamation Act and will propose those changes only after basic fairness is considered.

PROPOSED PRESIDENTIAL STATEMENT ON 160-ACRE LIMITATION

There have been many questions and fears raised about the 160-acre limitation in the Reclamation Law. It is important for the public to understand the fundamental facts regarding this issue.

The original Reclamation Law was designed to encourage development of family farms in the West. To do this the law provided federally subsidized water on the basis of 160 acres per ^(resident family member) ~~person~~ and required that farmers live on or near their land.

Recent Court decisions have required the government to begin to correct past inconsistencies in enforcement of the law. At the same time, ^{the} ~~it is~~ clear that conditions of family farming have changed since the first law was passed in 1902.

The Administration is moving to determine whether changes need to be made in the law to ^(bring it into accord) ~~make it current~~ with the economic realities of family farming today:

- Thirteen hearings are scheduled throughout the West on the Department of Interior's Proposed Excess Land Regulations.
- A Task Force established by Congress to review the Westlands Water District (largest in the nation) will report its findings by January 1.

- The Administration's Water Policy Review Task Force will present recommendations to me in February.

In ^{view} ~~light~~ of these efforts, final excess land regulations will not be issued at least until the end of February.

In addition, I have asked the Secretaries of Interior and Agriculture to review the 160-acre limitation in light of changes in agriculture since 1902, and to review potential hardship cases under the residency requirement as well -- for example, the case of elderly farmers who wish to retire. This review will be completed in February. I have asked the Secretaries to advise me at that time of the need for any appropriate amendments to modernize the Reclamation Law.

The Imperial Irrigation District represents a unique problem. The ^{question} ~~issue~~ of whether the District is ~~or is not~~ subject to the acreage limitation is still before the Courts. Until the matter is finally settled by the Courts, excess land regulations will not be applied to the District.



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THE VICE PRESIDENT
WASHINGTON

Fritz. I wonder if the first trip could be made to Mexico?

November 10, 1977 *(because of my delay in S.A. part of my trip)*

MEMORANDUM FOR THE PRESIDENT

FROM: The Vice President *uf*

Otherwise, o.k. - JC

SUBJECT: Foreign Missions - Canada and Mexico

In giving attention to the domestic and foreign policy roles I might play most effectively in the coming months, I have consulted with Cy Vance and Zbig Brzezinski on foreign assignments that would contribute in a positive way to your overall foreign policy objectives. I have also taken into account the need to shape any proposed foreign schedule so as to avoid interfering with important domestic requirements.

As a result of this assessment I would recommend that I undertake working visits in your behalf to Canada this year and to Mexico early in 1978.

Canada and Mexico

Your meetings at the beginning of the Administration with President Lopez Portillo and Prime Minister Trudeau demonstrated the importance you attach to genuine improvements in relations with our neighbors in Mexico and Canada. Since those meetings, the US-Canadian Pipeline Agreement has been signed -- a development of importance to both countries and one signaling improved understanding and cooperation, not only in the energy field, but, more broadly, in our entire relationship.

While there has not been a similar, single bilateral development in our relations with Mexico, as a result of your early initiative, the US-Mexican consultative

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Per, Rac Project
ESDN: NLC-9-36-1-2
BY KS NARA DATE 3/8/13

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mechanism was established in May, a bilateral trade agreement has been negotiated, and both countries are giving earnest attention to such key issues as illegal migration, energy and North-South relations. During his visit to Washington in September, Foreign Secretary Roel urged that I schedule a trip to Mexico in the near future to continue this process of close consultation.

Cy Vance and Zbig have endorsed the idea of working visits by me to Canada and Mexico in the belief that such visits would pay real dividends in our relations with each country, and would serve to again emphasize how sincere your Administration is in the actions it is taking to improve relations with our neighbors to the North and South.

Canada. I would propose to visit Canada on December 16-17 for meetings in Ottawa on the 16th with Prime Minister Trudeau and members of his government and with a visit on the 17th to one of the mid-West provinces. My current thinking would be to go to Edmonton, Alberta, one of the provinces that will benefit from the new US-Canadian pipeline. A visit to Edmonton, which would meet fully with Trudeau's approval, would demonstrate, first of all, that your Administration, unlike past Administrations, has a better understanding of Canadian interests and recognizes that a visit to Canada should involve more than a brief in and out round of talks in Ottawa.

With your approval, I would take the occasion of the visit to Edmonton to deliver a substantive speech on the importance your Administration attaches to good US-Canadian relations, a speech which would examine our bilateral interests, our energy interests in the broader context of the international energy situation, and our hemispheric interests.

APPROVE _____

DISAPPROVE _____

Mexico. Subject to your approval, I would propose to visit Mexico late January or early February 1978 for talks in Mexico City with leaders of the Mexican

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government on the key issues currently before the United States and Mexico. I would also propose travel to at least one other location in Mexico to highlight activities of bilateral importance. State has advised that the Mexican government would be pleased if I were to make a brief tour of one of the new oil producing areas, perhaps Tehuantepec, a suggestion I tend to favor.

APPROVE _____ DISAPPROVE _____

If you approve, I believe it would be most effective if both visits were to be announced at the same time. This would highlight the priority attention your Administration continues to give to both Canada and Mexico.

APPROVE _____ DISAPPROVE _____

*If you wish to
visit Mexico, I do
please. I will be
glad to see you.*

CONFIDENTIAL

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THE SECRETARY OF STATE
WASHINGTON

7728124

~~CONFIDENTIAL~~

November 4, 1977

MEMORANDUM FOR: THE PRESIDENT
FROM: Cyrus Vance *CAV*
SUBJECT: Visit of Soviet Foreign Trade
Minister Nikolai Patolichev

I. Purpose

Patolichev is a ranking member of the Soviet Government, and the fact that you are seeing him is a sign of the importance you attach to US-Soviet relations in general as well as to trade matters specifically. The Kremlin will scrutinize your remarks to him for indications of your views of the general state of relations, while Patolichev will seek to learn your intentions regarding Jackson-Vanik. He likely will say that our restrictions are causing trade to decline, but paint a rosy picture of the long-range opportunities for US business in the USSR.

Your treatment of the Jackson-Vanik aspect will depend on how you plan to handle the issue in coming months. There are obvious advantages in terms of our relations with the Soviets if you could indicate that you plan to push for revision of Jackson-Vanik at an early date. In my judgment, however, that is not realistic in terms of our problems in Congress. While it can be argued that the rise in Soviet emigration rates, coupled with progress in SALT, offers a good prospect for modifying Jackson-Vanik at this time, I am concerned that an Administration initiative would cut across our other more urgent objectives in Congress, including SALT. Therefore the line suggested below supposes that we do not plan an early move on Jackson-Vanik. If that is the case, I suggest you be frank with Patolichev in explaining the reasons.

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Per: Rac Project

ESDN: NLC-126-9-36-1-2

BY 125 NARA DATE 3/8/13

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Your purpose in this meeting will be:

--to give an appreciation of the improvement in overall relations, including the successful Gromyko visit, the progress in arms control and Brezhnev's proposal on PNE's;

--to confirm that we consider trade important in the long-term view of relations, which both you and Brezhnev have in recent months emphasized;

--to let him know that because Jewish emigration from the USSR has been increasing, and US-Soviet relations in general are improving, we have begun quiet, preliminary consultations with Congress on the Jackson-Vanik restrictions. Both emigration and the handling of dissident cases will be closely watched by Congress;

--but to speak frankly about the Senate situation in which a premature effort on trade would not only fail but would harm prospects in other areas, including SALT.

II. Background

Patolichev has been the Soviet Union's Minister of Foreign Trade for almost 20 years. He is the son of a peasant who became a famous cavalry leader in the Civil War. He was trained as a chemical engineer, but spent most of his career in various Communist Party posts until Khrushchev assigned him to his present job in 1958.

Despite his advanced age (69) and failing health (heart trouble) Patolichev is vigorous and direct in conversation, and tough and quick-witted in negotiations. Proud of his peasant background, he will often use an anecdote from village life to amplify a point he is making.

A. Reasons for His Trip

Patolichev has two reasons for coming to the United States at this time:

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--to attend the annual members' and directors' meeting of the US-USSR Trade and Economic Council in Los Angeles; over 200 major American firms and the main Soviet officials who deal with foreign economic relations are members of this organization. Patolichev and Secretary Blumenthal are honorary directors;

--to open the Soviet National Exhibit which begins in Los Angeles November 11 and is a counterpart to our bi-centennial exhibit in the Soviet Union last year;

The fact that you have expressed a willingness to see Patolichev on his way to Los Angeles adds an important dimension to his visit. The Soviets have been concerned that we do not seem to consider trade important in US-Soviet relations.

B. Trade Relations

Patolichev is likely to reiterate what he said to us in June - that US-Soviet trade is now declining because of the legislative restrictions. Our inability to extend official credits has definitely hurt our trade, but other factors - e.g. the Soviet hard currency shortage - are probably just as relevant. Total US exports for the first nine months of 1977 were \$1.3 billion, compared with \$1.8 billion for the same period last year. Most of the drop reflects smaller grain exports. Shipments of grain in the balance of this year may be at a higher rate reflecting new purchases to offset the lower Soviet crop estimate just announced by Brezhnev. Our machinery and equipment exports are also down significantly, however. Our imports from the USSR through September were \$187 million, up from last year.

Patolichev can be expected to argue that the USSR can get along without trade with the US, but that major trade opportunities exist if we want to take advantage of them --for example, in the large development projects in Siberia.

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- 4 -

C. Jackson-Vanik

When he was here in June, Patolichev wanted to know the Administration's position on Jackson-Vanik. He understood that the time was not right for removing the restrictions, but said it would be helpful if the Administration could at least take an initiative in that direction. Secretary Blumenthal and I told him that we wanted to see the law changed, and that trends in our overall relations and in Soviet performance on human rights--particularly emigration--would influence Congressional attitudes.

Since June, two things have happened: there has been significant progress in SALT, and Jewish emigration from the Soviet Union is up almost 25 percent over last year's total at this time. However, at the same time, the Congress has proven bearish on foreign affairs initiatives.

D. Siberian Energy Projects

Patolichev may conceivably reopen the subject of US participation in Siberian energy development and may press for a USG endorsement of the Yakutsk Liquefied Natural Gas Project. If he does, you should respond politely but noncommittally, since we are still sorting out the role that investment in foreign energy sources should play in our overall energy policy.

III. Courtesy Points

--the meeting of the Trade and Economic Council in Los Angeles and the opening of the Soviet National Exhibit, are important events and you wish them full success;

--note that Secretaries Blumenthal and Kreps will be at the Council meeting and that a ranking State Department Official (Phil Habib) will join in opening the exhibit;

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- 5 -

--our relations have witnessed a substantial improvement in recent months, thanks to the successful work which we were able to accomplish with Mr. Gromyko, and the positive notes in Secretary Brezhnev's recent speech.

B. Substance

--we attach importance to economic relations with the USSR, which strengthen ties between our countries;

--the restrictions in our law on MFN tariff treatment and official credits for the USSR have impeded those relations;

--we would like to see those restrictions removed;

--Congress is not ready to do this, however. Premature efforts would not only fail, but could harm other undertakings, such as SALT:

--two positive developments have occurred since you were last here in June: overall relations are better, and Jewish emigration from the USSR is increasing;

--we have therefore begun preliminary consultations with the Congress, and these will continue in the coming months. Legislative hearings on Export-Import renewals are expected to begin early next year and may provide an opportunity to further assess the situation;

--the emigration situation will continue to be watched closely as we try to work out a solution to this problem;

--some individual cases are viewed with great concern here and the way your authorities handle them will affect our ability to work with Congress on revising the trade legislation;

--improved trade needs to be viewed in the long-term, a perspective both sides now increasingly understand and share in approaching relations generally.

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3:45 PM

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

November 8, 1977

INTEREST GROUP BRIEFING ON PANAMA CANAL TREATIES

Thursday, November 10, 1977

3:45 P.M. (15 minutes)

The State Dining Room

From: Margaret Costanza *MC*

I. PURPOSE

To motivate a grassroots effort among public opinion leaders to support a treaty ratification.

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

- A. Background: This briefing includes the leadership from a diverse segment of women's organizations. Women in attendance are strategically located both geographically and ideologically.
- B. Participants: The attached list has been compiled by leading women in the administration and has been approved by Mrs. Carter.
- C. Press Plan: White House photo and press opportunity

III. TALKING POINTS

The same presentation you have given at the previous briefings will be appropriate here.

NOTE: It is anticipated that Mrs. Carter will open the meeting with a few brief remarks.

Attachments:

Agenda
List of participants

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AGENDA

Thursday, November 10, 1977

2:00	WELCOME	Midge Costanza Assistant to the President for Public Liaison
2:05	GLOBAL PERSPECTIVE	Dr. Zbigniew Brzezinski Assistant to the President for National Security Affairs
2:25	EXPLANATION OF THE TREATIES	Ambassador David H. Popper
2:55	BREAK	
3:10	NATIONAL SECURITY VIEW	John Stetson Secretary of the Air Force Admiral James Holloway Chief of Naval Operations
3:35	QUESTION & ANSWER	
3:45	REMARKS	The President

PARTICIPANTS IN WOMEN'S BRIEFING ON PANAMA CANAL TREATIES

Jane R. Chapman
Center for Women's Policy Studies

Marcia Greenberger
Center for Law and Social Policy

Dr. Helen Wolf
AAUW

Carol Burris
Women's Lobby

Judy Lichtman
Women's Legal Defense Fund

Ana Maria Perera
National Association of Cuban American Women

Robin Owens
National Association Negro Business &
Professional Women's Clubs, Inc.

Martha T. Mills
League of Women Voters

Jacqueline Fassett
National Association of Social Workers

Dr. Suzanne Hepler
National Association of Social Workers

Dr. Catherine Kops
Lutheran Church Women

Mildred Reel
Future Homemakers of America

Dr. Molly Shanley
Committee on Status of Women in the Professions

Leona Chanin
American Jewish Congress, Women's Division

Susan Greene
Association of Junior Leagues

Theressa Hoover
United Methodist Church, Women's Division

Elizabeth Chittick
National Women's Party

Sally B. O'Neill
National University Extension Association,
Division of Women's Education

Alna Joan Daugherty
American Businesswomen's Association

Anita Shelton
National Committee on Household Employment

Natalie Priest (born Cohen)
ASTRA

Denise Tourover Ezekiel
Hadassah

Shirley Leviton
National Council of Jewish Women

Ann Herbert
United Presbyterian Women

Marge Boehm
Women's League of International Peace and Freedom

Nancy Payan Dolan
Mexican American Women's National Association

Dr. Claudine Gay
American Medical Women

Beatrice Fitzpatrick
American Women's Development Corporation

Mary Harpley
Women's Council of Realtors

Rose Williams Boyd
National Civil Service League

Margaret LeMone
American Meteorologists Association
Board of Women and Minorities

Geraldine Reado
Career Women in Industry

Elsie Freivogel
Society of American Archivists
Commission on Status of Women

Florence Haggis
American Women's Society of CPA's

Dr. Natasha Meshkov
Association of Women in Science

Inez Kiser
Minority Women in Business

Eleanor Smeal
National Organization of Women

Kathleen Peratis
ACLU, Women's Division

Inez Tinsley
National Association of Colored Women's Clubs

Angela Cruz Miller
All Nations Women's League

Peg Maeder
National Education Association
Women's Caucus

Eileen Thornton
WEAL

Wilhemina Jackson Rolark
National Association of Black Women Attorneys

Dorothy I. Height
National Council of Negro Women

Dr. Maxine Margolis
Commission on Women Latin American Studies
Association

Patsy Fryman
Communications Workers of America

Mae Walterhouse
Federally Employed Women

Armintha Harness
Society of Women Engineers

Reverend Mary Louise Rowand
Church Women United

Christine Noschese
National Congress of Neighborhood Women

Edith Stanley
Women's Christian Temperance Union

Vivian Bowser
National Education Association

Roberta Anschuetz
National Council of Women of the U.S.

Margaret McCullough
American Home Economics Association

Susan Painter
Federation of Organizations for
Professional Women

Margaret L. Arnold
Outstanding Young Women of America
General Federation of Women's Clubs

Sister Elizabeth Barrett
Leadership Conference of Women's Religious

Judy Kunofsky
Zero Population Growth, Sierra Club

Bernice Sumlin
Alpha Kappa Alpha Sorority

Janice Kissner
Zeta Phi Beta Sorority

Esther Smith
National Association of Bank Women

Jean Carlson
Daughters of the American Revolution

Valeriana Kallab
Society for International Development,
Women in Development

Eloise Rosas
Mexican American Legal Defense Fund

Louise Smothers
Coalition of Labor Union Women (CLUW)

Olya Margolin
National Coalition for Women and
Girls in Education

Claudette Ford
YWCA

ADMINISTRATION PARTICIPANTS

Mrs. Carter

Honorable Margaret Costanza
Assistant to the President

Ambassador David Popper

Honorable John Stetson
Secretary of the Air Force

Admiral James Holloway, III
Chief, Naval Operations

Additional participants:

Representatives from women's groups

Susan Aheron
National Women's Political Caucus

Jackie Lassiter

Mary E. Ruddy
Girl Scouts of America

Carmen Delgado Votaw
National Conference of Puerto Rican Women

Jerri Wagner
General Federation of Women's Clubs

Renee Weeks
National Bar Association, Women's Division

Administration

Brigadier General William W. Hoover
Military Assistant to Secretary Stetson

Lieutenant Colonel Roger C. Smith

2:30 PM

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

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for Preservation Purposes

MEMORANDUM TO: THE PRESIDENT

FROM:

Jack Watson

Jane Frank

November 9, 1977

RE:

Proposed Plan for First Meeting with
Business Leaders, Thursday, November 10,
1977, 12:30 - 3:30 p.m.

Pursuant to your handwritten note to me of October 27, we convened a meeting of Juanita, Bob Strauss, Bob Carswell (representing Mike Blumenthal), Jim McIntyre, Charlie Schultze, Stu and Ham to map out plans for a series of meetings in which you would participate with business leaders. The views of those participating in our meeting diverged considerably on several issues: size of meetings; the advantages of homogeneity in the group invited; frequency of meetings; format; and the nature of your involvement. We took the various suggestions--and proposed lists of invitees--and have a tentative plan for the first meeting which will "test out" a number of options. We propose that immediately following the meeting we consult again with the Cabinet/White House group that participated in order to assess the effectiveness of some of our experiments and to design a plan for additional business meetings over the next year.

Our proposal for tomorrow's meeting is as follows:

Cabinet/White House Participants: We have invited all those with whom you asked us to consult, plus Jim Schlesinger. Juanita will be out of town and Sidney Harman will attend in her stead. Mike Blumenthal can only make part of the meeting. The list of Cabinet/White House participants is as follows:

Mike Blumenthal
Stu Eizenstat
Jane Frank
Sidney Harman
Hamilton Jordan
Jim McIntyre

Bunny Mitchell
Jim Schlesinger
Charlie Schultze
Bob Strauss
Jack Watson

Invitees: We invited thirty-seven business leaders pulled from lists supplied by the DNC and the Cabinet/White House participants. The categories we sought were Democratic friends, heads of "middle-level" businesses which grossed between \$50 - \$200 million annually, and heads of some larger businesses who are not members of the Business Council or Business Roundtable. The group is ecumenical in nature--geographically diverse, some Blacks and women, from widely varied businesses. The list of attendees is attached.

Format:

- 12:30 - 1:30 Buffet lunch in the Roosevelt Room for invitees and Administration participants. (Bob Strauss suggests this as a way to loosen up the group and provide a chance for individual conversations.)
- 1:30 - 2:30 Presentation by several Administration spokespersons--Cabinet Room.
- 1:30 - 1:35 Welcome to White House--J. Watson
- 1:35 - 1:45 Outline of the energy legislation--J. Schlesinger
- 1:45 - 1:55 Q's & A's on energy legislation
- 1:55 - 2:05 Current issues in international trade--R. Strauss
- 2:05 - 2:15 Q's & A's on international trade
- 2:15 - 2:25 Discussion of several economic policy issues--M. Blumenthal
- 2:25 - 2:35 Q's & A's on economic issues (we suggest that you enter the room during Mike's remarks and listen to the discussion.)
- 2:35 - 3:00 We propose that you chair the meeting. After making brief (2 - 3 minutes) remarks about the importance of your energy legislation, you would field general questions from the group.

3:00 - 3:30 Following your departure, it has been suggested that we ask the group for further general comments and questions and for their suggestions as to how we might improve communications with the Administration generally, as well as the format of future meetings with you.

As you can see, this format contains the innovations of an informal lunch and a mixture of formal presentations (the style of President Johnson's meetings) with an unstructured wrap-up discussion following your departure. By trying both approaches, we should get a feel for whether one or both works best.

One final point: the White House/Cabinet group is of the unanimous view that your participation would be considerably more effective if you spent an hour instead of half an hour with subsequent business groups. This would enable you to listen to presentations by your Cabinet - or possibly to attend an informal lunch. We are making no firm recommendation on future formats yet and will reassess the issue with everyone after tomorrow's experience.

Attachments

11:15 am
Mon.
10/31/77.

1977 OCT 27 PM 1 25

THE WHITE HOUSE
WASHINGTON

10-27-77

To Jack

Prepare a brief written
plan for the series of
meetings with business
leaders & present it to
me.

Consult with Mike,
Juanita, Bob Strauss, Tim
McIntyre, Charlie, Harv
& Stu.

Jimmy

cc: Those mentioned

DATE
NIGHT TELEGRAM) ☐
LETTER ☐

The White House

Washington

STRAIGHTWIRE--Page 2

INVITEES

Mr. Richard Bloch
Filmways, Inc.
Room 300
1800 Century Park East
Los Angeles, CA 90067

Mr. Eli Broad
Chief Executive Officer
Kaufman & Broad, Inc.
10801 National Blvd.
Los Angeles, CA 90064

Mr. Edgar Bronfman
Chief Executive Officer
Seagram & Son
375 Park Avenue
New York, New York 10022

Mr. Frank L. Carney, President
Pizza Hut, Inc.
10225 East Kellogg
Wichita, Kansas 67207

Mr. Ira G. Corn, Chairman
Michigan General Corp.
Dallas Federal Savings Bldg.
Dallas, Texas 75225

Ms. Mary Crowley, President
Home Interiors & Gifts
4550 Spring Valley Road
Dallas, Texas 45240

Mr. Robert Galvin, Chairman
Motorola Company
1303 East Algonquin Road
Schaumburg, IL 60196

Mr. Don L. Gevirtz, Chairman
The Foothill Group, Inc.
2049 Century Park East
Los Angeles, CA 90067

Mr. Gordan Hanes
Hanes Corporation
2000 West First Street
Winston-Salem, NC 27103

Mr. Jesse Hill, President
Atlanta Life Insurance Co.
148 Auburn Avenue, NE
Atlanta, Georgia 30303

Mr. Ivan Houston, C.E.O.
Golden State Mutual Ins. Co.
1900 Adams Blvd.
Los Angeles, CA

Mr. Arnold Hyatt, C.E.O.
Stride Rite Corporation
960 Harrison Avenue
Boston, Massachusetts 02118

Mr. Eugene Jackson, President
National Black Network
1350 Ave. of Americas
New York, New York 10019

Mr. John H. Johnson, President
Johnson Publishing Company
820 S. Michigan
Chicago, IL 60605

Mr. E. Robert Kinney, President
General Mills Corporation
9200 Wayzata Blvd.
Minneapolis, Minnesota 55440

Mr. Winthrop Knowlton, Pres.
Harper & Row Publishers
10 East 53rd Street
New York, New York 10022

Mr. Louis Kornfeld, President
Radio Shack, Inc.
2617 W. 7th Street
Fort Worth, Texas 76107

APPROVED FOR DISPATCH

The White House

Washington

Mr. William C. Norris, Pres.
Control Data Corp.
8100 34th Avenue, S.
Minneapolis, Minnesota 55440

Ms. Jane Cahill Pfeiffer
IBM
Old Orchard Road
Armonk, N.Y. 10504

Mr. Lawrence S. Phillips,
President
Phillips-Van Heusen
1290 Avenue of the Americas
New York, NY 10016

Ms. Diane J. Plotts, President
Mark Christopher, Ltd.
2424 Kala Kaua Avenue
Honolulu, Hawaii 96815

Mr. Steve Ross
Warner's Communication
75 Rockefeller Plaza
New York, NY 20019

Mr. Herman Russell, C.E.O.
Herman Russell Construction
504 Fair Street, SW
Atlanta, Georgia 30313

Mr. Walter H. Shorenstein, Chairman
Milton Meyer & Co.
1 California Street
San Francisco, CA 94111

Mr. Norton Stevens
Norlin Corporation
200 Park Avenue
New York, NY 10017

Mr. Dewey Presley, President
First Int'l. Bancshares, Inc.
P.O. Box 83201
Dallas, TX 75283

Mr. William Mead, Chairman
Campbell, Taggart, Inc.
P.O. Box 2650
Dallas, TX 75221

STRAIGHTWIRE--Page 3

Mr. Frank Launtenburg, Chairman
Automatic Data Processing, Inc.
405 Route 3
Clifton, NJ 07015

Ms. Mary Wells Lawrence
Wells, Rich & Greene
767 5th Avenue
New York, NY 10022

Mr. Charles Lazarus, C.E.O.
Toys R Us
299 Market Street
Saddlebrook, N.J. 07662

Mr. David T. McCaughlin, President
Toro Company
8111 Lyndale Ave., S.
Bloomington, Minnesota 55420

Mr. Peter McCollough, Chairman
Xerox Corporation
Stamford, Conn. 06904

Ms. Joan Manley
Time-Life Books, Inc.
Duke & Washington Sts.
Alexandria, VA 22304

Mr. Alex Manoogian, C.E.O.
Masco Corporation
21001 Van Born Road
Taylor, Michigan 48180

Ms. Helen Meyer, President
Dell Publishing Company
750 3rd Avenue
New York, NY 10017

Mr. J. Irwin Miller, Chairman
Cummins Engine Co., Inc.
432 Washington Street
Columbus, Indiana 47201

Dean Arjay Miller
Graduate School of Business
Stanford University
Stanford, CA 94305

THE WHITE HOUSE
WASHINGTON

November 10, 1977

Tim Kraft

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Hamilton Jordan

RE: POSSIBLE DECEMBER TRIP - ~~REDACTED~~ *AFLC 10*
MRS. JOHNSON

ADMINISTRATIVELY CONFIDENTIAL

THE WHITE HOUSE
WASHINGTON

FOR STAFFING
FOR INFORMATION
FROM PRESIDENT'S OUTBOX
LOG IN/TO PRESIDENT TODAY
IMMEDIATE TURNAROUND

ACTION	FYI	
		MONDALE
		COSTANZA
		EIZENSTAT
		JORDAN
		LIPSHUTZ
		MOORE
		POWELL
		WATSON
		McINTYRE
		SCHULTZE

ENROLLED BILL
AGENCY REPORT
CAB DECISION
EXECUTIVE ORDER
Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

ARAGON
BOURNE
BRZEZINSKI
BUTLER
CARP
H. CARTER
CLOUGH
FALLOWS
FIRST LADY
HARDEN
HUTCHESON
JAGODA
GAMMILL

KRAFT
LINDER
MITCHELL
MOE
PETERSON
PETTIGREW
POSTON
PRESS
SCHLESINGER
SCHNEIDERS
STRAUSS
VOORDE
WARREN

THE PRESIDENT HAS SEEN.

*Tim -
Show me a
possible schedule
J*

TO: PRESIDENT CARTER
FROM: HAMILTON JORDAN *H.J.*
RE: POSSIBLE DECEMBER TRIP

Earlier this year, you approved the possibility of a trip to Texas on the 11th and 12th of December to honor Mrs. Lyndon Johnson at a dinner. At the same time, you indicated that you did not want to continue on the next day to Los Angeles to attend the national AFL-CIO convention.

My own strong feeling is that you should do both events or neither event. As long as you are in Texas on the 11th and 12th, it is difficult to explain why you can't fly a little further and attend the AFL-CIO convention. As you remember, you flew to LA earlier in the year to attend the UAW Convention.

The UAW has about 1.3 million members and the AFL-CIO has almost 16 million members. And although we got off

to a rocky start this year with the AFL-CIO, we have had a good working relationship with them over the past several months. We have supported labor law reform and withdrawal from the ILO. They have supported our Panama Canal treaty and our energy plan and have helped on numerous other issues.

With SALT and other tough issues coming up in 1978, we will need their help and good will. Appearing at their national convention will win us a lot of goodwill and support among their leadership who make the big decisions. We will get more credit for going to their convention than we will for doing substantive things for them.

When we are down in the polls, it is good to have the political base of support which is provided by constituent groups. Despite their problems earlier this year, they continue to represent the largest and most powerful lobbying force on the Hill. As we go into an election year, their influence on the Hill will increase.

I would strongly recommend that you attend their
convention. It will take six to eight additional
hours but will earn us tons of goodwill and actual
support. The worst thing would be to go to Texas and
skip the AFL-CIO Convention. We flew all the way
west to attend the UAW Convention. To refuse to fly
from Texas to Los Angeles for the AFL-CIO Convention
would be considered a slight.

THE WHITE HOUSE
WASHINGTON
November 10, 1977

Hamilton Jordan

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Jim Gammill

RE: LETTER FROM BAIER RE JOB

THE WHITE HOUSE
WASHINGTON

ACTION
FYI

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	FOR INFORMATION
/	FROM PRESIDENT'S OUTBOX
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	WATSON
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	SCHULTZE

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	CAB DECISION
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	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
/	GAMMILL

	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

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THE PRESIDENT HAS SEEN.

*Ham -
See me
J*

CITY OF ATLANTA
MAYOR'S OFFICE OF ECONOMIC DEVELOPMENT

MAYNARD JACKSON
MAYOR

D. MARCUS RANGER
DIRECTOR

Dear President Carter,

For the past several months I have been exploring the opportunities of serving in your administration. To date, I have expressed this interest to Andy Young, Landon Butler, Frank Moore Jr., Joseph Franklin, Stu Egnstat and Jim Gammit and Jesse Hill has spoken to Hamilton Jordan.

Next week I will be in Washington and will speak again with these people as well as others with whom I worked on the Campaign and Transition Staffs.

Currently, I am Deputy Director of the new Mayor's Office of Economic Development. Establishing this Office has been an interesting and valuable experience. The Mayor, however, is aware of my desire to join your Administration and I will be available after the first of the year.

Being Co-Chairman with Joe Andrews for the reception and press conference at which you announced for the Presidency in Atlanta was certainly a highlight of my life. But I believe that I can serve you and the objectives of your administration in a position, which although less dramatic, will be more meaningful and sustained.

I am enclosing several copies of my resume, should you have specific people to whom you wish to circulate them.

I have every confidence that time and diligence will result in identifying a situation where I can make the best possible contribution to your Presidency and I very much look forward to this opportunity and this honor.

*Sincerely,
W. Byse Bauer*



THE WHITE HOUSE
WASHINGTON
November 10, 1977

The Vice President

The attached was returned in the President's outbox. It is forwarded to you for appropriate handling.

Rick Hutcheson

cc: Stu Eizenstat
Frank Moore
Jody Powell
Jack Watson
Jim McIntyre

RE: SHORTFALLS IN ECONOMIC STIMULUS
PROGRAM - REPORT TO PARREN

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
/	FROM PRESIDENT'S OUTBOX
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	SCHNEIDERS
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	VOORDE
	WARREN

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THE PRESIDENT HAS SEEN.

THE VICE PRESIDENT
WASHINGTON

*Fritz - Give
Parren a brief
report* C

November 10, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: THE VICE PRESIDENT *Wf*
SUBJECT: SHORTFALLS IN ECONOMIC STIMULUS PROGRAMS

Following up on our meeting yesterday with the members of the Congressional Black Caucus, I have now received replies from the Secretary of Labor and from the Secretary of Commerce on shortfalls in spending under the stimulus programs. I am attaching copies for your review at Tab A, together with a CETA assessment by OMB.

CETA OUTLAYS IN FY 1977

All of the figures provided in Rep. Parren Mitchell's analysis involve budget estimates and expenditures for FY 1977. Secretary Marshall points out that the major reason for the discrepancy between the Administration's February estimates and actual outlays is the result of a two-month delay (from April to June) from the anticipated to the actual date of Congressional approval of the CETA appropriations bill. OMB confirms this assessment with respect to CETA Title VI and reports that this program is now on schedule. With respect to other CETA programs, OMB notes that additional problems were encountered in start up design for major expansion, but reports that these programs are now also on track.

LOCAL PUBLIC WORKS

Secretary Kreps, through Assistant Secretary Robert Hall, reports that the original \$800 million estimate for Local Public Works expenditures was prepared by the Ford Administration and proposed in President Ford's January Budget. Never before had a program of this kind and magnitude been implemented in so short a time frame. Without prior experience and lengthy opportunity for detailed analysis, our budget

accepted the Ford Administration's estimate. Commerce Department officials report that while federal project approvals advanced at a rate consistent with the original \$800 million target, the rate of actual spending by contractors proceeded somewhat slower than anticipated. They attribute the lag in actual outlays to longer lead times for site preparation, weather, and lower start up costs than those expected. Based upon this experience, the Administration in June revised its estimate of FY 77 spending to \$525 million. According to Assistant Secretary Hall, this estimate was exceeded by \$60 million. He reports that barring severe winter weather, or prolonged legal delays in connection with the 10% minority set aside, FY 78 targets will be met or exceeded.

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

10 NOV 1977

The Honorable Walter F. Mondale
The Vice President of the
United States
Washington, D. C. 20510

Dear Mr. Vice President:

I am responding to the discussion with Under Secretary Brown's office concerning statements by Congressman Parren J. Mitchell regarding a shortfall in fiscal year 1977 outlays in employment and training programs under the Comprehensive Employment and Training Act. While there was a difference of \$980 million between the Department's outlays of CETA funds in FY 1977 and the President's budget estimate, that difference was caused by the lateness in enacting both the CETA appropriations bill and the new Youth Employment and Demonstration Projects Act.

The President's budget estimate was based on an assumption that the CETA appropriations bill would be enacted in April, 1977. The bill was, however, not enacted until June. Moreover, the Youth Bill was not enacted until August 5, 1977, and those programs are just now being fully implemented.

I think it is important to emphasize that the 1977 CETA appropriations contemplated an 18-month Public Service Employment Program, to continue through FY 1978. That program is developing according to plan, and we expect to reach our goal of 725,000 PSE positions by March 1.

Due to the late appropriations, however, we will have funds remaining at the end of FY 1978. We have been discussing several options with OMB about the best use of those funds. One option would be to complete the original 18-month plan by carrying the program into the first two months of FY 1979. The other option would be to utilize those funds to build the PSE jobs program above the 725,000 level.

- 2 -

I hope this adequately explains the fiscal year 1977 outlay situation. If you should need additional information, please let me know.

Sincerely,

Ray Marshall

Secretary of Labor



UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Economic Development
Washington, D.C. 20230

November 9, 1977

The Vice President
United States Senate
Washington, D. C. 20510

Dear Mr. Vice President:

Prior to leaving town this afternoon, Secretary Kreps asked me to report to you on the status of expenditures under the Local Public Works (LPW) Program.

As I understand it, some concern was expressed by the Black Caucus that LPW expenditures were lagging. This is not the case and indeed we are pleased with the program's current expenditure performance.

As you will recall, the LPW Program had two phases. Round I involved the \$2 billion obligated in the closing days of the previous Administration, and Round II consisted of the \$4 billion obligated this summer.

The \$800,000,000 expenditure estimate for the Local Public Works Program for FY 1977 was initially developed during the last months of the Ford Administration as part of his FY 78 Budget submission to the Congress. At the time that estimate was reviewed in January of this year, there was no new information on which to revise the expenditure estimate for Round I of LPW. In June after reviewing construction starts and timetables and the initial expenditure performance, the official expenditure estimates for the LPW Program in FY 1977 were revised downward to \$525 million. As it turned out, we were able to exceed the OMB estimate by \$60 million reaching a total of \$585 million in expenditures for the first round of Local Public Works Program for FY 1977. The \$585 million actually represents expenditures for part of a year since the LPW Round I projects were not all awarded until early February and disbursements did not begin until March.

As part of our management system for the LPW Program, we have implemented an expenditure monitoring system which will better insure that the disbursements in FY 78 flow

readily into the economy. These disbursements will include expenditures from Round I and Round II. Further, since the average size project in Round II is smaller, we anticipate a faster disbursement rate for the Round II projects this fiscal year. The current OMB expenditure estimate for the Local Public Works Program in FY 78 for both Rounds I and II is \$2.6 billion. If we do not have a particularly severe winter and if law suits or other delays from the 10% Minority Business Enterprise requirement do not delay the start of construction on too many projects, we will probably exceed the OMB estimate.

Expenditures for Round I for the five weeks of the new fiscal year have reached \$117 million. This means we are off to an excellent start this fiscal year with regard to Round I expenditures. However, we need at least a few months of experience with the Round II construction and expenditure rates before we consider updating the current total estimate for FY 78. At this time we are fully confident of at least reaching the OMB \$2.6 billion FY 78 estimate.

If you need any additional information, please let us know.

Sincerely,



Robert T. Hall
Assistant Secretary for
Economic Development

OFFICE OF MANAGEMENT AND BUDGET

CETA Outlays in 1977

	<u>CETA Title VI</u>	<u>CETA All Other</u>
President's Budget (February)	2,949	3,656
	- 559	- 288
Mid-Session Update (June)	<u>2,390</u>	<u>3,368</u>
	- 50	- 77
Actual	<u>2,340</u>	<u>3,291</u>
Total Difference	609	365

Reasons for Difference

Title VI: The shortfall is due to delay in enactment of appropriations of approximately 2 months compared to the date assumed in the February budget. The slippage required by this delay was identified by the mid-session update. This program is now on schedule.

Other CETA: The shortfall in the other CETA programs is primarily because the many new program designs and complex program expansions envisioned in the stimulus package are taking more time to work out. The stimulus plan was highly ambitious and a vast amount of work has been done -- e.g., regulations published, grant application packages designed and distributed, staff trained, planning grants (youth programs) distributed, etc.

Enrollments in most programs are starting in the first quarter (October-December).

The stimulus plan may, in hindsight, have been too ambitious in terms of the rate of start-up but the programs are now on track.

11-9-77

11:15 AM

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THE PRESIDENT HAS SEEN.

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

November 9, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: Charlie Schultze ^{CLS}

Subject: Meeting with Economic Advisers and Federal Reserve
Board Chairman (Quadriad)

Discussion at the meeting on Thursday (November 10) might center on the following areas:

- the outlook for 1978 and its implications for fiscal and monetary policy;
- recent changes in the velocity of money and the implications for monetary policy;
- broader implications for the world economy.

The following material provides some background for this discussion.

1. The Outlook for 1978

Over the course of this past summer, growing uncertainties about the prospects for business fixed investment led to a downward revision in our forecast for next year. In September, real GNP growth over the four quarters of 1978 was estimated at about 4 percent.

Recent indicators of economic activity have continued to be mixed.

- . Consumer spending was very weak in the second and third quarters. In October, retail sales appear to have strengthened. Although the personal saving rate rose in the third quarter, it is still relatively low; if it increases further, consumer spending will grow somewhat less rapidly than after-tax incomes.

- . Inventories remain fairly moderate in relation to sales. Slow growth in industrial production during the third quarter reflected a quick production response to the slowdown in consumer spending, avoiding an undesired inventory buildup. Cautious inventory policies will continue, but production should rise more strongly if consumer spending strengthens.
- . The merchandise trade deficit declined substantially in September, as exports rose faster than imports. One month's performance does not make a trend; no fundamental improvement can be expected in our foreign trade balance while our economy is growing faster than those of our trading partners, and our oil imports continue to be so large.
- . Housing starts in the third quarter averaged almost 8 percent above the second quarter, and sales of new homes have continued to rise. However, home building is not likely to rise much further, because single family construction is at record levels and backlogs of demand have been filled. If interest rates were to rise considerably further, residential construction would probably decline late next year.
- . Business fixed investment has not developed the momentum we expected. New orders for capital goods moved erratically during the summer, and were lower, on average, than in the second quarter. Private surveys of business plans indicate a growth rate of only around 5 or 6 percent next year in plant and equipment outlays (adjusted for inflation). These lackluster signals are not consistent with the strength needed for a strong economy in 1978.

There is now some risk that the rate of expansion in 1978 may even fall below the 4 percent figure we projected in September. The probability has increased that additional stimulative measures will be needed to keep growth at a satisfactory pace next year.

On the fiscal side, scheduling individual income tax cuts in your tax reform package to take effect at mid year 1978 would be one way to deal with the problem. You may wish to explore with Chairman Burns the appropriate response of monetary policy to a tax cut. A tax cut can keep the pace of expansion from lagging if money and credit are permitted to increase fast enough to keep the higher growth rate of

the economy from pushing up interest rates. A large rise in interest rates could negate some or all of the benefits of tax reduction.

2. Velocity of Money

The velocity of money is the speed with which money changes in financing the purchase and sale of goods and services. It is usually measured by the ratio of GNP in current prices ("nominal GNP") to the narrowly defined money supply (M_1).

Normally velocity rises in an economic expansion. As I have discussed with you on previous occasions, the velocity of money grew unusually fast during the first two years of the current recovery.

- . From 1Q 1975 to 1Q 1977 velocity grew at an annual rate of almost 6 percent, and interest rates actually fell.

But since then the pattern has reversed:

- . Velocity grew at an annual rate of only 2 percent between the first and third quarters of 1977, as the rate of growth of M_1 speeded up.
- . Short term interest rates rose sharply between the first and third quarters of this year, reflecting efforts by the Federal Reserve to curb the growth of M_1 .
- . Rapid growth of M_1 continued in October, and short-term interest rates rose further as the Fed sought to rein in that M_1 growth.
- . Recently, the Federal Reserve has backed off its efforts to raise the Federal Funds rate -- the rate used as a target by the Federal Reserve -- and securities markets have settled down. It is not clear, however, what the Federal Reserve intends to do if money growth continues to be rapid.
- . If velocity continues to rise at a slow pace, a relatively high growth rate of money will be needed to accommodate satisfactory growth in output. The target growth range for M_1 announced today (11/9) for the period from 1977-III to 1978-III was 4 percent to 6-1/2 percent. To meet our growth targets, nominal GNP will have to grow by about 11 percent from 1977 to 1978 (5 percent real growth and 6 percent inflation).

If velocity grows by 2 percent, M₁ growth of 9 percent would be needed. If the Fed tries to hold growth of M₁ within its target range, and velocity increases are small, interest rates will rise very sharply and the recovery will be damaged.

You may wish to discuss with Chairman Burns the recent slowdown in the growth of M₁ velocity. Does he expect slow growth in velocity to continue? Can the Federal Reserve explain why the rise in velocity has slowed? Will the Federal Reserve modify its targets for money growth if the slowdown persists?

Burns may argue that increasing the rate of money growth would be unwise because of our inflationary problem. We disagree. A weaker economy next year because of inadequate growth of money and credit will affect prices very little, and real output and employment a lot.

3. The World Setting

Economic growth in other industrial economies has lagged badly this year, and unemployment in those countries is not declining. The European economies have shown little growth since the first quarter. In Japan, growth has been led by exports; private domestic demand has been weak.

A faltering of the U. S. recovery during 1978 would deal a heavy blow to the prospects for economic progress among our trading partners. Continued strong expansion in the U. S. economy is vital to the health of the world economy. We must keep this in mind in formulating our monetary policy as well as our fiscal policies.

In regard to the international situation, Chairman Burns may argue that actions to stimulate domestic expansion will be harmful to our merchandise trade balance and to the international value of the dollar. There are strong arguments to the contrary:

- . Although expanding incomes generate demand for more imports, a major source of the rise in imports this year was oil. Actions to reduce our trade deficit should concentrate on reducing our oil deficit.
- . Efforts on our part to hold down the trade deficit by moderating the growth of our economy would intensify the already alarming trend towards protectionism.

- . The decline in the value of the dollar in foreign exchange markets has not been large -- relative to the trade-weighted average of all other currencies the dollar declined 3 percent from last December to today (11/9). (It had fallen further but has recovered.) Moreover, it is not a sign of weakness in our economy. The decline was principally against the Japanese yen, the German mark, and the Swiss franc, and will help reduce inappropriate surpluses in the current account balances of those countries.
- . Slower economic growth would discourage the flow of investment funds into the U. S. The exchange value of the dollar might respond more to this than to any improvement in the trade deficit that resulted from slower growth.

Finally, we have heard via the grapevine that Chairman Burns is unhappy with the following remark attributed to you by Time magazine. "I think one of the major reasons for perhaps a lowering in the stock market values has been the increase of fluidity of the money supply and the increase in interest rates put on by the Federal Reserve Board." If he brings this issue up, he will probably argue that the principal reason why the stock market is weak is because corporate profits are so low.

Your statement, which identifies rising interest rates as one of the major reasons for declining stock prices is correct. It is a major reason. Of course, there are others -- including an inadequate recovery of profits since early 1975, fears of inflation, fears of a slowdown in the pace of economic activity, uncertainties about government policy, and others.

Burns discussed the state of corporate profits recently in a major address. We have looked at his arguments carefully and conclude that he greatly overstates the deterioration in business profits over the past decade for two reasons:

- 1) his measures of profits do show the effect of inflation in spuriously raising reported taxable profits and thereby increasing the tax bite -- but they do not allow for the beneficial effect of inflation in lowering the real burden of business debt;
- 2) he does not allow for the fact that profits are low now because the economy is depressed and excess capacity is now widespread.

11/10/77
w/ regard to Briefing material for
Press Conferences

THE WHITE HOUSE
WASHINGTON

3 big -

The answers are
getting longer &
more like themes -

Keep them brief
& to the point -
with facts -

J

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

November 10, 1977

Q
✓

MEMORANDUM FOR THE PRESIDENT

FROM: Dan Tate/Bill Cable *Bill*
THROUGH: Frank Moore *Dan*
SUBJECT: Energy Tax Conference

The conferees met and resolved to our general satisfaction several small issues relating to credits for:

----wind, solar and geothermal equipment,
----vans used in van pooling, and
----electric motor vehicles and other non-oil fuel vehicles.

When no clear resolution was visible, the conferees passed over gas guzzler and other related items. They will meet on Monday at 10 a.m. to begin consideration of COET (crude oil equalization tax). Things are moving very slowly in this conference but that is to be expected at this stage in the proceedings.

cc: Vice-President Mondale

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THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

November 10, 1977

C

MEMORANDUM FOR THE PRESIDENT

FROM: Jack Watson *Jack*
SUBJECT: TELEPHONE CALL FROM
GOVERNOR RAY BLANTON

I spoke with Ray Blanton yesterday afternoon who had called simply to urge you not to reappoint Dr. Burns as Chairman of the Federal Reserve Board. In his words, we have had enough of "Dr. High Interest Rate."

He also said that you are doing great, and for you not to be discouraged by the (several expletives deleted) press.

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THE PRESIDENT AND VICE PRESIDENT

THE WHITE HOUSE
WASHINGTON

November 10, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK MOORE *FM*
JIM FREE *Jim*
BOB THOMSON *Bob*

SUBJECT: ENERGY CONFERENCE (COAL CONVERSION)
THURSDAY SESSION

By passing compromises on impact assistance, power plant loans and citizens' suits today, the conferees moved substantially closer to finishing their work on coal conversion. As predicted, the conference should have a report by tomorrow afternoon.

In the morning session, the conference passed an impact assistance plan costing much less than the original Senate proposal which called for authorizations of \$125 million each year for 8 years. The compromise is a 2-year land acquisition and development grant authorization--\$60 million in FY 79 and \$120 million in FY 80. Under the compromise, the grants are for 75% of project costs rather than 100% as in the Senate proposal.

The conferees also cut back authorizations for loans to power plants for pollution abatement equipment. The Senate bill had a \$2 billion, 2-year program originally, but the compromise authorizes \$400 million annually for 2 years. The conferees deleted entirely a program of coal conversion loan guarantees that would have authorized annual guarantees of \$400 million for 5 years.

The conferees approved a compromise on citizens' suits to enforce the coal conversion law. Under the compromise, citizens may sue any Federal agency that fails to perform a nondiscretionary duty under the Act--a legal right that would be upheld in most cases anyway.

Chairman Staggers took the lead in the impact assistance fight. He should get a lion's share of the credit for not allowing this battle to hold up the conference.

The weekend will be welcome relief for many of the conferees. Tempers were short in the afternoon and Congressman Dingell would not win a popularity contest if the committee were polled tonight. Nevertheless, he has been our champion on several issues.

The Senate conferees feel they conceded too much on the coal conversion bill so we can expect some stiffened backbones during the utility rate reform conference.

THE WHITE HOUSE
WASHINGTON
November 10, 1977

Bob Lipshtuz

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

LETTER FROM JOHN F. NICKOLL ON
ANATOLY SHARANSKY -- REPLY

THE WHITE HOUSE
WASHINGTON

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	FOR INFORMATION
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	STRAUSS
	VOORDE
	WARREN

JOHN F. NICKOLL
President

THE PRESIDENT HAS SEEN.

Bob-
prepare brief
reply
J

November 9, 1977

President James Earl Carter
The White House
Washington, D.C.

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for Preservation Purposes

Dear President Carter:

Tomorrow you are meeting with several business leaders, including my partner, Don Gevirtz. I have asked him to personally deliver this letter to you.

I have admired your stands for human justice and your backing of the rights of minorities around the world. I know you have spoken to the Soviet authorities and have conveyed your personal concern for those who wish to emigrate.

My family through my mother's side, the Milgrims, are related to Anatoly Sharansky. Sharansky probably has thirty living relatives in the United States (cousins, uncles, second cousins, etc.).

We all hope and pray that you will be able to use the prestige of your high office to save Sharansky's life and eventually secure his freedom so that he may leave the Soviet Union.

I appreciate the time you have taken to read this letter and I hope you can aid the course of Sharansky's life.

Sincerely,


John F. Nickoll

JFN/sk

Business leaders meeting 11/10/77

THE WHITE HOUSE
WASHINGTON

Bus / Govt consultation

Energy

Econ stimulus

Reorg

Paperwork

OSHA

Welfare

↓

Tax - Trade

Electrostatic Copy Made
for Preservation Purposes

Small bus.
11/10/77

THE WHITE HOUSE
WASHINGTON

Capital investment < '69

Cap Gains - Securities - Double Tax

Small Business

50 - 100,000 fed inc tax

10% - 12% = 80% prefer

Red tape & reports

Interest rates long term

Pizza Hut = Keep Burns = Hold tax reform

Vaulters - ~~IF~~ STR = Textile agreements

IRS definition of ind Contractor

FCC

Positive comments

THE WHITE HOUSE
WASHINGTON

November 10, 1977

Bob Lipshutz

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Stu Eizenstat

RE: E.O.: "Establishing the National
Commission for Review of Anti-
Trust Laws and Procedures"

Transmitted and

Signed 11/22/77

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

November 9, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: ROBERT LIPSHUTZ *RL*

RE: Executive Order: "Establishing the National Commission
for Review of Antitrust Laws and Procedures"

The Attorney General has submitted the attached proposed Executive Order, which would create a 15-member commission--comprised of representatives of the Executive, Legislative and Judicial branches, as well as the private sector--whose purpose is to study possible improvements in the enforcement of antitrust laws. The order requires the Commission to submit its final report to the President and Attorney General within six months after the last member has been appointed.

The Commission's scope of inquiry would include both procedural matters--reforms designed to simplify litigation of large antitrust cases--and the key substantive issue of possible modification of antitrust exemptions and immunities. The Commission's mandate is deliberately narrow--the product of compromise between Justice and those such as Mike Pertschuk of the FTC and Senator Kennedy who fear that the Commission will have a markedly conservative approach.

Within the White House there is agreement that a commission of this type should be created. Stu believes, however, that the Commission should be a creature of the Justice Department, appointed by and reporting to the Attorney General. Stu feels that the procedural issues are too technical for a Presidential commission and that the substantive questions may well produce controversial recommendations--such as repeal of the law shielding the insurance industry from antitrust liability--to which you should not have to respond directly.

Stu also notes that there will probably be a dispute over the Commission's membership if the members are Presidentially appointed, with people like Pertschuk and Kennedy likely to be opposed to many of the Attorney General's ABA candidates.

The Attorney General wants the Commission to be created by the President. He believes that the stature associated with a Presidential commission will tend to produce higher caliber members from the private sector and also will tend to insure that the Congressional members take their job seriously.

15
Bob -
Talk to Stu
J

Electrostatic Copy Made
for Preservation Purposes

THE WHITE HOUSE
WASHINGTON

November 11, 1977

The Vice President
Jim McIntyre

The attached is forwarded to
you for your information.

Rick Hutcheson

RE: "PHANTOM" UTILITY TAXES

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
	FROM PRESIDENT'S OUTBOX
/	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI	
	/	MONDALE
		COSTANZA
		EIZENSTAT
		JORDAN
		LIPSHUTZ
		MOORE
		POWELL
		WATSON
/		McINTYRE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER

Comments due to
Carp/Huron within
48 hours; due to
Staff Secretary
next day

	ARAGON
	BOURNE
	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
	FALLOWS
	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
	GAMMILL

	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

Watson NC

concern that study

Treas "prepared to
participate in any
further study."

THE WHITE HOUSE
WASHINGTON

Date: November 2, 1977

Sup
etc w/ luty
WEP
MEMORANDUM

FOR ACTION:

Jack Watson *no by phone*
Jim McIntyre
Charlie Schultze *concur (phone)*
Secretary Schlesinger

FOR INFORMATION:

The Vice President
Frank Moore
Jody Powell
HOK
WON
to OMB
for luty

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Eizenstat memo dated 11/2/77 re "Phantom" Utility Taxes

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 9:00 AM

DAY: ~~Friday~~ SAT per

DATE: November 4, 1977

Eizenstat to
permt consulta-
tions of OMB

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

Team + OMB asked
for comm/s. Now
they want to know

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE

WASHINGTON

Date: November 2, 1977

MEMORANDUM

FOR ACTION:

Secretary Blumenthal *attached concern w/ need for study*

FOR INFORMATION:

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Eizenstat memo dated 11/2/77 re "Phantom" Utility Taxes

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TO THE STAFF SECRETARY BY:

TIME: 9:00 AM

DAY: Friday

DATE: November 4, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

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If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE
WASHINGTON

8-13-77

Shu.
This doesn't seem

right.
Work on it
I

K.H.
+c. Bell
David

Jack Anderson and Les Whitten

Giant Utilities' 'Phantom Taxes'

The giant utility companies have learned how to make a profit out of paying taxes. They simply add the taxes to the bills they send their customers. But the utilities charge their customers for the full federal taxes before the exemptions are deducted. Then the companies keep the savings instead of returning the money to the consumers.

Thus the utilities collect millions earmarked for taxes, which end up not in the Treasury but in corporate accounts. This must be one of the most impressive cases on record of having your cake and eating it, too.

The losers, of course, are the consumers who wind up paying not only higher-than-ever gas, electric and telephone bills but also the utilities' tax bills—including phantom taxes that the companies stash away.

These phantom taxes may become a national issue. Already, some state utility commissioners are fighting to return the unpaid taxes to the customers who paid them. This move is encountering massive resistance, however, from the big utilities.

The issues, of course, has two sides. The Congressional Research Service has summed up the public case in an unpublished memorandum, which asks simply: "Should the utility companies collect from the ratepayer what amounts to phantom taxes which are never paid?"

The case for the utilities, on the other hand, has been summarized by the greatest utility of them all, American Telephone & Telegraph Co., which claims its customers get their money

back in the form of lower rates. The tax break, argues AT&T, enables the Bell System to keep rates down.

According to the latest Federal Power Commission figures, electric utilities alone had accumulated \$1.6 billion in deferred tax credits at the end of 1975. The Environmental Action Foundation, which keeps a close watch on electric utilities, estimates they retained at least \$7 billion in unpaid federal taxes from 1954 to 1975.

Most state utility commissions have gone along with this loophole and have permitted the companies to keep the extra money that they collected from their customers for taxes. But a few commissions, notably California, have made moves to require the utilities to return the tax savings.

This can be done through a book-keeping procedure called flow-through accounting. But the telephone utilities, of course, prefer the "normalization" method.

An AT&T official explained that the Bell companies keep the tax savings in a reserve, which is used for modernization and other investment. But eventually, it must be paid back since it is only a deferred tax break, he said.

The memo from the Congressional Research Service, responding to this argument, points out: "The present rates are worth more in an economic sense than the future tax payments. Also, for a utility which is constantly growing and continuing to build new plants, it is not clear that future tax payments ever match current revenues, as deferrals continue to increase each year."

But under the tax laws as they are now written, an Internal Revenue spokesman told us, the savings from tax credits aren't intended to go back to the consumers. Instead, the savings must be kept in reserve and used for investments. The tax breaks can't be treated as income, which they would be if they were returned to the ratepayers, the spokesman said. As Internal Revenue interprets the law, tax savings also can't be used to reduce rates.

There is a good chance this whole tax brouhaha will end up before the Supreme Court.

Oil Squeeze—Months before he took office, Jimmy Carter quietly tried to persuade the oil sheikdoms not to raise their oil prices. As President-elect, he told the Senate Foreign Relations Committee that a new round of oil increases would have a devastating impact on the world economy.

Sen. Charles Percy (R-Ill.) offered to convey Carter's position to the ambassadors of the oil-producing countries. Carter agreed to let the senator pass on his private statements.

Percy contacted nearly 20 ambassadors. But he reported back in a confidential memo that "we are in a weak position" until the United States adopts a tough energy conservation program.

His timing was also unfortunate. He contacted the ambassadors at the same time that U.S. Steel announced a price increase. Complained Percy in his confidential memo: "The U.S. steel price increase at this time doesn't help."

THE WHITE HOUSE
WASHINGTON

<input checked="" type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input type="checkbox"/>	IMMEDIATE TURNAROUND

del 7:00 AM Friday

ACTION	FYI	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	MONDALE
<input type="checkbox"/>	<input type="checkbox"/>	COSTANZA
<input type="checkbox"/>	<input type="checkbox"/>	EIZENSTAT
<input type="checkbox"/>	<input type="checkbox"/>	JORDAN
<input type="checkbox"/>	<input type="checkbox"/>	LIPSHUTZ
<input type="checkbox"/>	<input checked="" type="checkbox"/>	MOORE
<input type="checkbox"/>	<input checked="" type="checkbox"/>	POWELL
<input checked="" type="checkbox"/>	<input type="checkbox"/>	WATSON
<input checked="" type="checkbox"/>	<input type="checkbox"/>	LANCE <i>JM</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	SCHULTZE

<input type="checkbox"/>	ENROLLED BILL
<input type="checkbox"/>	AGENCY REPORT
<input type="checkbox"/>	CAB DECISION
<input type="checkbox"/>	EXECUTIVE ORDER

Comments due to
Carp/Huron within
48 hours; due to
Staff Secretary
next day

del 10:00 AM Friday

<input type="checkbox"/>	ARAGON
<input type="checkbox"/>	BOURNE
<input type="checkbox"/>	BRZEZINSKI
<input type="checkbox"/>	BUTLER
<input type="checkbox"/>	CARP
<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	FALLOWS
<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	JAGODA
<input type="checkbox"/>	KING

<input type="checkbox"/>	KRAFT
<input type="checkbox"/>	LINDER
<input type="checkbox"/>	MITCHELL
<input type="checkbox"/>	MOE
<input type="checkbox"/>	PETERSON
<input type="checkbox"/>	PETTIGREW
<input type="checkbox"/>	POSTON
<input type="checkbox"/>	PRESS
<input checked="" type="checkbox"/>	SCHLESINGER
<input type="checkbox"/>	SCHNEIDERS
<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	VOORDE
<input type="checkbox"/>	WARREN



THE SECRETARY OF THE TREASURY
WASHINGTON 20220

F.Y.I.

November 4, 1977

MEMORANDUM FOR THE PRESIDENT

Subject: Stu Eizenstat's Memo of 11/2/77 on
"Phantom" Utility Taxes

I have read Stu's memo on the highly complicated but very important subject of utility taxes. Although I don't agree with certain parts of his analysis, I heartily concur with his recommendation that we study these very important issues. Treasury is prepared to participate and play a major role in any further study of issues involving tax subsidies for investment and tax treatment of regulated industries.

W. Michael Blumenthal

THE WHITE HOUSE

WASHINGTON

November 2, 1977

MEMORANDUM FOR

THE PRESIDENT

FROM

STU EIZENSTAT *Stu*
BILL DELLER, KITTY SCHIRMER

SUBJECT:

"Phantom" Utility Taxes
(Prepared at Your Request)

You asked that we examine the "phantom" tax issue which was described in a Jack Anderson column. This memorandum briefly describes the tax and regulatory system which produces the "phantom" tax effect, and recommends steps to be taken.

What Phantom Taxes Are

The claim that utilities charge customers with taxes which they do not actually pay arises from the rather complex interaction of federal corporate income tax laws and state regulatory policies.

Utility income taxes are treated differently from other corporations. Their income taxes are treated as a cost of doing business and are included in the rate base by state regulatory commissions. State regulatory and ratemaking policies are structured to ensure that a utility receives an annual profit fixed as specific percentage of investment. A utility's federal income taxes are paid, in effect, by its customers.

The accounting procedures used by state regulatory commissions to calculate tax costs for ratemaking purposes generally differ from those used by utilities to determine federal income tax liability. For example, a utility may use accelerated depreciation on new equipment for federal income tax purposes, but for ratemaking purposes, state utility commissions calculate this same tax liability on a straight-line basis. (This is called normalization.) The result is that customers are charged with taxes in the early years of investment on equipment which the utility does not actually have to pay the federal government until later years. In effect, the utility receives an interest-free loan.

Utilities and state regulatory commissions relying on this procedure argue that the net tax paid to the federal government and charged to customers are identical in the long run. Utilities also argue that being able to use this money collected from customers lowers their capital expenses for new construction by reducing borrowing requirements. They claim this results in lower consumer rates.

A similar effect occurs under the investment tax credit provisions of the Internal Revenue Code. When new equipment is purchased, a credit equal to 10% of the cost of the equipment can be taken against federal income tax owed in that year. However, most state regulatory commissions permit the benefits of the credit to be averaged over the service life of the equipment. Since the utility benefits immediately from the tax credit but customers pay rates as though the tax credit was spread over a number of years, the utility again receives an effective interest-free loan.

In addition to providing utilities with interest-free capital, these provisions also encourage continued growth in the utility sector. As long as utilities continue to expand, both accelerated depreciation and the investment tax credit serve to reduce their actual federal income tax burden, although taxes are collected from customers.

If a utility stops growing, however, it finds that its tax liability increases while customer payment of taxes is held constant. This happens because tax benefits the utility received from past investments will expire without new tax benefits to offset them. The utility may then face a severe financial squeeze when it must meet full tax liabilities without having the advantage of credits or accelerated depreciation.

Both accelerated depreciation and the investment tax credit tend to stimulate expansion of utility capacity, even on occasions when that capacity may be only marginal.

Discussion

Some state regulatory commissions have passed the benefits of these and similar tax provisions on to utility customers by reducing utility profit margins or by basing rates on the taxes actually paid by utilities in each year. (The latter method is called flow-through accounting.) There is no federal requirement that this be done, however.

In fact, Congress, at the urging of the utilities, amended the tax laws to restrict state regulatory commissions' powers to require flow-through of the benefits of either accelerated depreciation or the investment tax credit to their customers. If a state commission forces a utility to pass tax benefits along to customers in the year the benefits are received (rather than averaging them over a longer period), the utility cannot take advantage of the investment tax credit or accelerated depreciation.

Some state commissions have been able to use devices other than flow-through accounting to make up for tax benefits, but these practices are by no means universal.

A number of larger federal tax policy issues are raised by the phantom tax question:

- Does the utility industry (which has recently met with a series of financial difficulties) really need the benefit of these tax provisions and do they effectively reduce consumer rates as claimed?
- Does a federal policy which encourages electric utility expansion serve our energy conservation needs? Do these tax provisions skew utility investment decisions away from making existing capacity more efficient (e.g., cogeneration, time of day pricing, load management) and toward marginal expansion?
- Should the federal government, through restrictions on use of tax benefits, discourage state utility commission efforts to pass these benefits directly along to customers?
- Should solutions to this problem apply only to electric utilities or all regulated utilities (e.g., telephone, gas, water)?

Several options for dealing with this question are available:

- To amend the tax laws by requiring flow-through accounting if accelerated depreciation or investment tax credit options are exercised.
- To bar utilities from the investment tax credit and/or accelerated depreciation on the grounds that expansion should not necessarily be encouraged, and that electric utility prices should not be subsidized by the federal government.

- To retain the existing system, but encourage state commissions to use all legal means to pass these benefits along to the consumer.
- To exempt regulated utilities from all income tax provisions, both benefits and liabilities, and subject them instead to a user tax. Legislation to accomplish this has been introduced in the House and Senate, and hearings will be held. It is argued that utilities pay very little in taxes anyway because of all the credits, and we would be better off with a system which was neutral with respect to investment in new capacity.

Recommendation

These issues are far-reaching and extend beyond the state of our analysis thus far. We recommend that a task force composed of the Departments of Energy and Treasury, CEA, and OMB be charged, through the Domestic Policy Review System, with further examining basic utility regulation and the desirability of changes either in regulatory policy, tax treatment or both. The results of this study could be factored into the second round of energy policy reforms.

Decision

_____ Initiate inter-agency review through Domestic
Policy Review System

_____ Other

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

November 10, 1977

MEMORANDUM FOR

THE PRESIDENT

FROM

STU EIZENSTAT
BILL DELLER

Stu

SUBJECT:

"Phantom" Utility Taxes
(Prepared at your request)

You asked that we examine the "phantom" tax issue which was described in a Jack Anderson column. This memorandum describes the tax and regulatory system which produces the "phantom" tax effect.

HOW PHANTOM TAXES OCCUR

The claim that utilities charge customers with taxes which they do not actually pay arises from the rather complex interaction of federal corporate income tax laws and state regulatory policies. Regulated industries, including electric utilities, are allowed by state regulatory commissions to base customer charges on costs including an allowance for federal income taxes. So-called "phantom" taxes result from the differences in accounting procedures used by state regulatory commissions to calculate tax costs for ratemaking purposes and federal tax accounting rules. Accelerated depreciation and the investment tax credit are the principal provisions of the federal tax law that give rise to charges of phantom taxes, although there are others.

Accelerated Depreciation. A utility may use accelerated depreciation to reduce taxable income and, consequently, tax liability in the early years of an asset's life. The situation is reversed in later years. Taxes are, in effect, deferred. Regulatory accounting uses straight-line depreciation over the service life of the asset, and when the value of deferred taxes is averaged over the service life of the asset it is said to be "normalized." Normalization results in customers being charged with taxes in the early years of an asset's service life which the utility does not have to pay to the federal government until later years. It is these monies, which are

termed deferred taxes, that give rise to charges of interest-free loans and "phantom taxes."

It is generally the practice of state regulatory commissions to reduce the rate base on which a utility is entitled to a rate of return by the value of the tax deferrals. The effect is that (1) customers do not have to artificially pay for that portion of capital costs the utility would have incurred if the utility had acquired the money from lenders or investors and (2) the utility does not artificially receive the return on its investment it would have gotten if that sum were left in the rate base.

If state regulatory commissions reduce the rate base in this way, there is actually no "phantom" tax resulting from accelerated depreciation. Some state commissioners like Robert Batinovich of the California Public Utilities Commission maintain, however, that it is extremely time-consuming and difficult to evaluate the proper tax allowances of a utility in light of that utility's particular financial situation. Regulatory commissions presently expend an inordinate amount of time litigating allowable tax expenses under existing federal tax laws, according to Batinovich.

If the value of the interest-free loan resulting from accelerated depreciation is used by a regulatory commission to reduce the tax element in the current cost of service, instead of being averaged over the service life of the asset, it is said to be "flowed through" to customers. The rate base on which a rate of return is allowed is not reduced but the tax element in the total cost of service is lower in current years and higher in later years. A 1969 amendment to the federal tax code prohibits state regulatory commissions from forcing utilities to use "flow through" accounting for accelerated depreciation.

Investment Tax Credit. The investment tax credit is the other principal provision of the federal tax law that gives rise to charges of "phantom taxes." Regulatory commission accounting treats the investment tax credit as a capital subsidy and reduces the rate base by the

amount of the credit. This spreads the effect of the credit on customer charges out over the life of the asset. Federal tax law requires that investment tax credits be treated in this way rather than be allowed to flow through to the customers in the year the credit is claimed, with the result that the regulatory commission allowances for taxes are higher than taxes actually paid by the utility that year. This is what is criticized as a "phantom tax."

EFFECT ON UTILITY GROWTH

Critics maintain that present federal tax laws encourage unnecessary utility construction which is inconsistent with present and future needs to conserve resources. As long as utilities continue to expand, both accelerated depreciation and the investment tax credit serve to reduce their actual federal income tax burden, although taxes are collected from customers. If a utility stops growing, however, it may find that its tax liability increases while customer payment of taxes is held constant. This could happen because tax benefits the utility received from past investments would expire without new tax benefits to offset them. The utility may then face a severe financial squeeze when it must meet full tax liabilities without having the advantage of credits or accelerated depreciation.

Other persons believe that although accelerated depreciation and the investment tax credit give utilities incentive to add capacity, just as those provisions encourage all companies to make capital investments, other factors such as inflation and uncertainty over future fuel costs work to effectively discourage, on balance, new investments to add or replace capacity.

DISCUSSION

The highly technical and complex interaction of accounting procedures used by regulatory commissions and tax accounting rules tend to obscure the real policy issues. If state commissions are successful in keeping the value of deferred taxes and investment tax credits out of the rate base, utilities will not receive capital at no cost or at the expense of customers.

Utilities have experienced difficulty in the recent past in obtaining adequate capital. They will require large amounts of capital for converting from oil and gas to coal under the National Energy Plan and to meet environmental requirements. State regulatory commissions are generally required by law to allow utilities a sufficient return on their assets to finance needed expansion, but the utility industry claims the present returns on investment that they are allowed is not adequate.

The fundamental policy issue is whether utilities need some kind of federal assistance to meet their capital needs in light of national energy, environmental, economic and employment goals.

If so, then a number of other questions arise:

- Is the present tax law the most efficient means to help the utilities obtain capital?
- Does the present law put such a fact-finding burden on state regulatory commissions that, in light of all the other factors they must consider in setting rates, they cannot keep the value of deferred taxes and investment tax credits out of the rate base and prevent windfalls to stockholders?
- Does the present law skew utility investment decisions away from making existing capacity more efficient (e.g., cogeneration, time of day pricing, load management) and towards marginal expansion?

Another important issue is whether tax provisions such as the investment tax credit and accelerated depreciation should be used to subsidize utility customers by requiring or allowing state regulatory commissions to flow through the benefits. To do so would be contrary to the thrust of the National Energy Plan.

RECOMMENDATION

The Department of Energy has a study underway on the role of utilities in relation to energy, economic, environmental, and employment goals and the options available to the utilities for meeting these objectives. This

study is scheduled for completion in June. Federal tax policy will be considered in that study.

In addition, the energy bill now before the Congress includes tax provisions that will have an effect similar to the effects the investment tax credit and accelerated depreciation currently have on utilities.

When the Department of Energy completes its study, we expect to work closely with them on options for further action.

THE WHITE HOUSE
WASHINGTON

August 13, 1977

Kelly

Stu Eizenstat

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

"GIANT UTILITIES' 'PHANTOM TAXES'" -
Jack Anderson Article

+C. Bert
David

THE WHITE HOUSE
WASHINGTON

8-13-77

Stu -

This doesn't seem
right.

Work on it

J

Jack Anderson and Les Whitten

Giant Utilities' 'Phantom Taxes'

The giant utility companies have learned how to make a profit out of paying taxes. They simply add the taxes to the bills they send their customers. But the utilities charge their customers for the full federal taxes before the exemptions are deducted. Then the companies keep the savings instead of returning the money to the consumers.

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These phantom taxes may become a national issue. Already, some state utility commissioners are fighting to return the unpaid taxes to the customers who paid them. This move is encountering massive resistance, however, from the big utilities.

The issue, of course, has two sides. The Congressional Research Service has summed up the public case in an unpublished memorandum, which asks simply: "Should the utility companies collect from the ratepayer what amounts to phantom taxes which are never paid?"

The case for the utilities, on the other hand, has been summarized by the greatest utility of them all, American Telephone & Telegraph Co., which claims its customers get their money

back in the form of lower rates. The tax break, argues AT&T, enables the Bell System to keep rates down.

According to the latest Federal Power Commission figures, electric utilities alone had accumulated \$1.6 billion in deferred tax credits at the end of 1975. The Environmental Action Foundation, which keeps a close watch on electric utilities, estimates they retained at least \$7 billion in unpaid federal taxes from 1954 to 1975.

Most state utility commissions have gone along with this loophole and have permitted the companies to keep the extra money that they collected from their customers for taxes. But a few commissions, notably California, have made moves to require the utilities to return the tax savings.

This can be done through a book-keeping procedure called flow-through accounting. But the telephone utilities, of course, prefer the "normalization" method.

An AT&T official explained that the Bell companies keep the tax savings in a reserve, which is used for modernization and other investment. But eventually, it must be paid back since it is only a deferred tax break, he said.

The memo from the Congressional Research Service, responding to this argument, points out: "The present rates are worth more in an economic sense than the future tax payments. Also, for a utility which is constantly growing and continuing to build new plants, it is not clear that future tax payments ever match current revenues, as deferrals continue to increase each year."

But under the tax laws as they are now written, an Internal Revenue spokesman told us, the savings from tax credits aren't intended to go back to the consumers. Instead, the savings must be kept in reserve and used for investments. The tax breaks can't be treated as income, which they would be if they were returned to the ratepayers, the spokesman said. As Internal Revenue interprets the law, tax savings also can't be used to reduce rates.

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His timing was also unfortunate. He contacted the ambassadors at the same time that U.S. Steel announced a price increase. Complained Percy in his confidential memo: "The U.S. steel price increase at this time doesn't help."